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सं. 33] नई दिल्ली, अगस्त 18—अगस्त 24, 2024, शनिवार/श्रावण 27—भाद्र 2, 1946  
No. 33] NEW DELHI, AUGUST 18—AUGUST 24, 2024, SATURDAY/SHRAVANA 27—BHADRA 2, 1946

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके  
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)  
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं  
Statutory Orders and Notifications Issued by the Ministries of the Government of India  
(Other than the Ministry of Defence)

विदेश मन्त्रालय

नई दिल्ली, 16 अगस्त, 2024

का.आ. 1602.—राजनयिक और कौंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्वारा, सरकार भारत के दूतावास, खार्तूम में श्री सुवेन्दु पाल, सहायक अनुभाग अधिकारी, को अगस्त 16, 2024 से सहायक कांसुलर अधिकारी के रूप में कांसुलर सेवाओं का निर्वहन करने के लिए अधिकृत करती है।

[फा.सं. टी. 4330/01/2024(27)]

एस.आर.एच. फहमी, निदेशक (सीपीवी-1)

**MINISTRY OF EXTERNAL AFFAIRS**

New Delhi, the 16th August, 2024

**S.O. 1602.**—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1048), the Central Government hereby appoints Shri Subhendu Pal, Assistant Section Officer as Assistant Consular Officer in the Embassy of India, Khartoum, to perform the consular services as Assistant Consular Officer with effect from August 16, 2024.

[F. No. T. 4330/01/2024(27)]

S.R.H FAHMI, Director (CPV-I)

नई दिल्ली, 19 अगस्त, 2024

**का.आ. 1603.**—राजनयिक और कोंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्वारा, सरकार भारत के प्रधान कोंसलावास, ह्युस्टन में श्री वर्री साई प्रकाश, सहायक अनुभाग अधिकारी और श्री दीपक पसरीचा, वैक्तिक सहायक, को अगस्त 19, 2024 से सहायक कांसुलर अधिकारी के रूप में कांसुलर सेवाओं का निर्वहन करने के लिए अधिकृत करती है।

[फा. सं. टी. 4330/01/2024(28)]

एस. आर. एच. फहमी, निदेशक (सीपीवी-1)

New Delhi, the 19th August, 2024

**S.O. 1603.**—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1048), the Central Government hereby appoints Shri Varri Sai Prakash, Assistant Section Officer and Shri Deepak Pasricha, Personal Assistant as Assistant Consular Officers in the Consulate General of India, Houston, to perform the consular services as Assistant Consular Officers with effect from August 19, 2024.

[F. No. T. 4330/01/2024(28)]

S.R.H FAHMI, Director (CPV-I)

**कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय****(कार्मिक और प्रशिक्षण विभाग)**

नई दिल्ली, 5 अप्रैल, 2024

**का.आ. 1604.**—केन्द्र सरकार, एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का 25) की धारा 5 की उप-धारा (1) सपठित धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केरल राज्य सरकार की अधिसूचना सं. जी.ओ.(एमएस) सं. 70/2024/गृह, दिनांक 09.03.2024 गृह (एम) विभाग, तिरुवनंतपुरम [एस.आर.ओ. सं. 257/2024 के रूप में प्रकाशित] के माध्यम से जारी सम्मति से, सिद्धार्थन जे.एस., पुत्र श्री जयप्रकाश, पवित्रम, कुन्नमपुरथ वीडू, कुराक्कोडे, विनोद नगर, नेदुमंगड, पत्रालय-तिरुवनंतपुरम, केरल की मृत्यु के संबंध में वितिरी थाना, जिला-वायनाड में दंड प्रक्रिया संहिता की धारा 174 मामला परिवर्तित हो कर भारतीय दंड संहिता की धाराएँ 120बी, 341, 323, 324, 342, 355, 306, 506 सपठित धारा 34 और केरल रैगिंग निषेध अधिनियम, 1998 की धाराएँ 3, 4 के तहत दर्ज अपराध सं. 77/2024 से जुड़े अपराधों का अन्वेषण करने तथा ऐसे अपराध(धों) से जुड़े या उससे संबद्ध किसी दुष्प्रयास, दुष्प्रेरणा और/अथवा षड्यंत्र एवं/अथवा उसी संव्यवहार में किए गए या उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध का अन्वेषण करने के लिए, दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार समस्त केरल राज्य में करती है।

[फा. सं. 228/21/2024-एवीडी-11]

कुंदन नाथ, अवर सचिव

**MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS  
(DEPARTMENT OF PERSONNEL AND TRAINING)**

New Delhi, the 5th April, 2024

**S.O. 1604.**—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (25 of 1946), the Central Government with the consent of the State Government of Kerala, issued vide Notification G.O.(Ms) No. 70/2024/Home dated 09.03.2024, Home(M) Department, Thiruvananthapuram [Published as S.R.O. No. 257/2024], hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole State of Kerala for the investigation of offences involved in Crime No. 77/2024 u/s 174 CrPC altered into the matter section 120 B, 341, 323, 324, 342, 355, 306, 506 r/w 34 IPC and section 3, 4 of the Kerala Prohibition of Ragging Act, 1998 Vythiri Police Station, Wayanad District registered in connection with the death of Sidharthan.J.S., S/o Sh. Jayaprakash, Pavithram, Kunnumpurath Veedu, Kurakkode, Vinod Nagar, Nedumangad, P.O., Thiruvananthapuram, Kerala and matters related thereto and any attempt, abetment and/or conspiracy, in relation to or in connection with such offence(s) and/or for any other offence committed in the course of the same transaction or arising out of the same facts

[F. No. 228/21/2024-AVD-II]

KUNDAN NATH, Under Secy.

नई दिल्ली, 29 मई, 2024

**का.आ. 1605.**—केन्द्र सरकार, एतद् द्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का 25) की धारा 5 की उप-धारा (1) सपठित धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तेलंगाना राज्य सरकार की अधिसूचना सं. जी.ओ.एमएस.सं.13, दिनांक 16.03.2024 एवं शुद्धिपत्र जी.ओ.एमएस.सं. 20, दिनांक 04.04.2024, गृह (विशेष) विभाग के माध्यम से जारी सम्मति से श्री पी.आर. सुरेश, मुख्य अभियंता, कॉन-VI, दक्षिण मध्य रेलवे, सिकंदराबाद के खिलाफ भ्रष्टाचार निवारण अधिनियम, 1988 (1988 का केंद्रीय अधिनियम संख्या 49) (वर्ष 2018 में यथा संशोधित) की धारा 13(2) सपठित धारा 13(1) (बी) के तहत दंडनीय अपराध(धों) से जुड़े मामले या उससे संबद्ध किसी दुष्प्रयास, दुष्प्रेरणा और/अथवा षड्यंत्र एवं/अथवा उसी संव्यवहार में किए गए या उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार समस्त तेलंगाना राज्य में करती है।

[फा. सं. 228/37/2024-एवीडी-II]

कुंदन नाथ, अवर सचिव

New Delhi, the 29th May, 2024

**S.O. 1605.**—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Central Act XXV of 1946), the Central Government with the consent of the State Government of Telangana, issued vide Notification No. G.O.Ms.No.13 dated 16.03.2024 and corrigendum G.O.Ms.No.20 dated 04.04.2024 Home (Special) Department, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment in the whole State of Telangana for investigation regarding case against Sri P.R. Suresh, Chief Engineer, Con-VI, SC Railway, Secunderabad for offences punishable under section 13 (2) read with 13 (1)(b) of Prevention of Corruption Act, 1988 (Central Act No. 49 of 1988) (as amended in 2018) and any attempt, abetment and/or conspiracy, in relation to or in connection with such offence(s) and/or for any other offence committed in the course of the same transaction or arising out of the same facts.

[F. No. 228/37/2024-AVD-II]

KUNDAN NATH, Under Secy.

नई दिल्ली, 13 जून, 2024

**का.आ. 1606.**—केन्द्र सरकार, एतद् द्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का 25) की धारा 5 की उप-धारा (1) सपठित धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए झारखंड राज्य सरकार की अधिसूचना ज्ञापन सं.-10/सी.बी.आई.-409/2024-3079 रांची, दिनांक 16.05.2024, गृह, कारागृह एवं आपदा प्रबंधन विभाग, के

माध्यम से जारी सम्मति से श्री परमेश्वर यादव, मुख्य प्रबंधक (ई-7), राजमहल परियोजना, ईस्टर्न कोलफील्ड्स लिमिटेड, गोड्डा, श्री विपिन कुमार, उप प्रबंधक (सिविल) इंजीनियर, राजमहल परियोजना, ईस्टर्न कोलफील्ड्स लिमिटेड, गोड्डा, श्री अवनीश पटेल, ओवरसीयर, राजमहल परियोजना, ईस्टर्न कोलफील्ड्स लिमिटेड, गोड्डा और श्री पवन कुमार महतो, सहायक राजस्व निरीक्षक. राजमहल परियोजना, ईस्टर्न कोलफील्ड्स लिमिटेड, गोड्डा के खिलाफ श्री हैदर अंसारी, पुत्र श्री अहमद अंसारी, आवास सं. 1266-ए, ग्राम-बसडीहा, पत्रालय-लोहंडिया बाज़ार, थाना-ललमटिया. जिला-गोड्डा द्वारा दिनांक 01.05.2024 को दर्ज कराई गई शिकायत के आधार पर दिनांक 19.05.2024 को भारतीय दंड संहिता की धारा 120-बी और भ्रष्टाचार निवारण अधिनियम, 1988 (वर्ष 2018 में यथा संशोधित) की धारा 7 के तहत दंडनीय अपराध(धों) के संबंध में पंजीकृत मामला आरसी. 4(ए)/2024-डी से जुड़े अपराध(धों) और कोई अन्य अपराध जो इस मामले के अन्वेषण के दौरान प्रकाश में आए और उससे संबद्ध किसी दुष्प्रयास, दुष्प्रेरणा और/अथवा षड्यंत्र एवं/अथवा उसी संव्यवहार में किए गए या उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध का पंजीकरण और अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार (कार्योत्तर प्रभाव से दिनांक 19.05.2024 से) समस्त झारखंड राज्य में करती है।

[फा. सं. 228/50/2024-एवीडी-II]

कुंदन नाथ, अवर सचिव

New Delhi, the 13th June, 2024

**S.O. 1606.**— In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (25 of 1946), the Central Government with the consent of the State Government of Jharkhand, issued vide Notification Memo No.-10/C.B.I-409/2024-3079 Ranchi, dated 16.05.2024, Home, Prisons and Disaster Management Department, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment (ex post facto w.e.f. 19.05.2024) to the whole State of Jharkhand for registration and investigation into the offence(s) in RC.4(A)/2024-D registered on 19.05.2024 punishable under section 120-B of IPC and section 7 of Prevention of Corruption Act, 1988 (as amended in 2018), against Shri Parmeshwar Yadav, Chief Manager (E-7), Rajmahal Project, Eastern Coalfields Limited, Godda, Shri Vipin Kumar, Dy. Manager(Civil)Engineer, Rajmahal Project, Eastern Coalfields Limited, Godda, Shri Avanish Patel, Overseer, Rajmahal Project, Eastern Coalfields Limited, Godda and and Shri Pawan Kumar Mahto, Assistant Revenue Inspector, Rajmahal Project, Eastern Coalfields Limited, Godda arising out of the complaint dated 01.05.2024 lodged by Shri Haydar Ansari S/o Shri Ahmad Ansari, House no. 1266-A, Vill-Basdiha, Post-Lohandia Bazar, PS-Lalmatia, Distt Godda and any other offence that may come to light during investigation of this case and any attempt, abetment and/or conspiracy, in relation to or in connection with such offence(s) and/or for any other offence committed in the course of the same transaction or arising out of the same facts.

[F. No. 228/50/2024-AVD-II]

KUNDAN NATH, Under Secy.

नई दिल्ली, 18 जून, 2024

**का.आ. 1607.**—केन्द्र सरकार, एतद् द्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का 25) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए निम्नलिखित अपराधों का अन्वेषण दिल्ली विशेष पुलिस स्थापना के सदस्यों द्वारा भी किए जाने हेतु विनिर्दिष्ट करती है, नामतः-

(क) केबल टेलीविजन नेटवर्क (विनियमन) अधिनियम, 1995 (1995 का 7) के अंतर्गत दंडनीय अपराधों।

(ख) ऊपर उल्लिखित अपराध(धों) से जुड़े या उससे संबद्ध किसी दुष्प्रयास, दुष्प्रेरणा और/अथवा षड्यंत्र एवं/अथवा उसी संव्यवहार में किए गए या उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध(धों)।

[फा. सं. 228/51/2024-एवीडी-II]

कुंदन नाथ, अवर सचिव

New Delhi, the 18th June, 2024

**S.O. 1607.**— In exercise of the powers conferred by Section 3 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government hereby specifies the following offences which are also to be investigated by the members of the Delhi Special Police Establishment, namely:-

(a) Offences punishable under “The Cable Television Networks (Regulation) Act, 1995 (Act No. 7 of 1995)”.

(b) Any attempt, abetment and/or conspiracy in relation to or in connection with above mentioned offence(s) and/or for any other offence(s) committed in the course of the same transaction or arising out of the same facts.

[F. No. 228/51/2024-AVD-II]

KUNDAN NATH, Under Secy.

नई दिल्ली, 28 जून, 2024

**का.आ. 1608.**—केन्द्र सरकार, एतद् द्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 की अधिनियम सं. 25) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए निम्नलिखित अपराधों को दिल्ली विशेष पुलिस स्थापना के सदस्यों द्वारा भी जाँच की जाने हेतु विनिर्दिष्ट करती है, नामतः :-

(क) “सार्वजनिक परीक्षा (अनुचित साधनों की रोकथाम) अधिनियम, 2024 (वर्ष 2024 की अधिनियम सं. 1)” के तहत दंडनीय अपराधों;

(ख) ऊपर उल्लिखित अपराध(धों) से जुड़े या उससे संबद्ध किसी दुष्प्रयास, दुष्प्रेरणा और/अथवा षड्यंत्र एवं/अथवा उसी संव्यवहार में किए गए या उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध(धों)।

[फा. सं. 228/51/2024-एवीडी-II]

कुंदन नाथ, अवर सचिव

New Delhi, the 28th June, 2024

**S.O. 1608.**—In exercise of the powers conferred by Section 3 of the Delhi Special Police Establishment Act, 1946 ( Act No. 25 of 1946), the Central Government hereby specifies the following offences which are also to be investigated by the members of the Delhi Special Police Establishment, namely :-

(a) Offences punishable under “THE PUBLIC EXAMINATIONS (PREVENTION OF UNFAIR MEANS) ACT, 2024 (Act No. 1 of 2024)”.

(b) Any attempt, abetment and/or conspiracy, in relation to or in connection with above mentioned offence(s) and/or for any other offence(s) committed in the course of the same transaction or arising out of the same facts.

[F. No. 228/51/2024-AVD-II]

KUNDAN NATH, Under Secy.

नई दिल्ली, 11 जुलाई, 2024

**का.आ. 1609.**—केन्द्र सरकार, एतद् द्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 की अधिनियम सं. 25) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए निम्नलिखित अपराधों को दिल्ली विशेष पुलिस स्थापना के सदस्यों द्वारा भी जाँच किए जाने हेतु विनिर्दिष्ट करती है, नामतः :-

(क) भारतीय दंड संहिता (वर्ष 1860 की अधिनियम सं. 45) की धाराएँ 194 और 195 के तहत दंडनीय अपराधों;

(ख) ऊपर उल्लिखित अपराध(धों) से जुड़े या उससे संबद्ध किसी दुष्प्रयास, दुष्प्रेरणा और/अथवा षड्यंत्र एवं/अथवा उसी संव्यवहार में किए गए या उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध(धों)।

[फा. सं. 228/51/2024-एवीडी-II]

सत्यम् श्रीवास्तव, अवर सचिव

New Delhi, the 11th July, 2024

**S.O. 1609.**—In exercise of the powers conferred by Section 3 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government hereby specifies the following offences which are also to be investigated by the members of the Delhi Special Police Establishment, namely :-

(a) Offences punishable under sections 194 and 195 of the Indian Penal Code, (Act No. 45 of 1860) and

(b) Any attempt, abetment and/or conspiracy, in relation to or in connection with above mentioned offence(s) and/or for any other offence(s) committed in the course of the same transaction or arising out of the same facts.

[F. No. 228/51/2024-AVD-II]

SATYAM SRIVASTAVA, Under Secy.

### इस्पात मंत्रालय

नई दिल्ली, 21 अगस्त, 2024

**का.आ. 1610.**—केन्द्रीय सरकार, सरकारी स्थान (अप्राधिकृत अधिभोगियों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तथा भारत के राजपत्र, तारीख 6 अप्रैल, 2019 में प्रकाशित भारत सरकार के इस्पात मंत्रालय की अधिसूचना संख्यांक का.आ. 490, तारीख 26 मार्च, 2019 का, उन बातों के सिवाय अधिक्रांत करते हुए, जिन्हें ऐसे अधिक्रमण से पहले किया गया है या करने का लोप किया गया है, नीचे दिए गए स्तंभ (1) में उल्लिखित अधिकारी जो भारत सरकार के राजपत्रित अधिकारी के समतुल्य रैंक के अधिकारी हैं, को उक्त अधिनियमों के प्रयोजनों के लिए संपदा अधिकारी नियुक्त करती है, जो उक्त सारणी के स्तंभ (2) में विनिर्दिष्ट सरकारी स्थानों के प्रवर्ग के संबंध में उक्त अधिनियम या इसके अधीन, संपदा अधिकारी को प्रदत्त शक्तियों का प्रयोग और उस पर अधिरोपित कर्तव्यों का स्थानीय सीमाओं के भीतर पालन करेंगे, अर्थात्:

#### सारणी

अधिकारी का पदनाम व पता	सार्वजनिक स्थानों के प्रवर्ग तथा अधिकारिता की स्थानीय सीमाएं
(1)	(2)
वरिष्ठ प्रबंधक (ग्रेड-ई3) अथवा सहायक महाप्रबंधक (ग्रेड-ई4) अथवा उप-महाप्रबंधक (ग्रेड-ई5) द उड़ीसा मिनरल्स डेवलपमेंट कंपनी लिमिटेड (ओएमडीसी) डाकघर: ठकुरानी बाया बारबिल जिला: क्योंझर, ओडिशा पिन- 758035	मैसर्स द उड़ीसा मिनरल्स डेवलपमेंट कंपनी लिमिटेड (ओएमडीसी) के सभी कार्यालय, परिसर, फैक्ट्रीज, संयंत्र, अतिथिगृह, वर्कशॉप्स, रेलवे साइडिंग, प्रयोगशालाएं, एक्सप्लोजिव मैंगजीन्स, वोकेशनल प्रशिक्षण केंद्र, अस्पताल और डिस्पेंसरीज, आवासीयक्वार्टर या आवास,स्वामित्व वाली अथवा पट्टे पर ली गई अथवा पावर ऑफ अटॉर्नी के माध्यम से ली गई भूमि जो निम्नलिखित में से किसी भी क्षेत्र में स्थित हो: (i) बारबिल, जिला: क्योंझर, ओडिशा (ii) साल्ट लेक सिटी (कोलकाता), जिला नॉर्थ 24 परगना, पश्चिमी बंगाल, और (iii) नई दिल्ली।

[फा. सं. एस-26011/2/2024-आरआईएनएल]

डॉ संजय राय, संयुक्त सचिव

### MINISTRY OF STEEL

New Delhi, the 21st August, 2024.

**S.O. 1610.**—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971(40 of 1971) and in supersession of notification of the Government of India in the Ministry of Steel, number S.O. 490, dated the 26<sup>th</sup> March 2019, published in the Gazette of India, dated the 6<sup>th</sup> April, 2019, except as respects things done or omitted to be done before such supersession, the Central Government hereby appoints the officer mentioned in column (1) of the Table below, being an officer equivalent to the rank of gazetted officer of Government of India, to be estate officer for the purposes of the said Act, who shall exercise the powers conferred and perform the duties imposed, on the estate officer by or under the said Act, within the local limits of the jurisdiction in respect of the categories of public premises specified in column (2) of the said Table, namely:-

TABLE

Designation and address of the officer	Categories of the public premises and local limits of jurisdiction.
(1)	(2)
Senior Manager (Grade-E3) or Assistant General Manager (Grade-E4) or Deputy General Manager (Grade-E5).  The Orissa Minerals Development Company Limited (OMDC), Post Office: Thakurani, Via-Barbil, District: Keonjhar, Odisha. Pin-758035.	All offices, premises, factories, plants, guest houses, workshops, railway sidings, laboratories, explosive magazines, vocational training centers, hospital or dispensaries, residential quarters or accommodation, land owned or held on lease or through Power of Attorney by M/s the Orissa Minerals Development Company Limited (OMDC), falling in any of the following areas:- (i) Barbil, Keonjhar District, Odisha. (ii) Salt Lake City (Kolkata), District North 24 Parganas, West Bengal; and (iii) New Delhi.

[F. No. S-26011/2/2024-RINL]

Dr SANJAY ROY, Jt. Secy.

## श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 13 अगस्त, 2024

**का.आ. 1611.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ईशा सुरक्षा सुरक्षा गार्ड के प्रबंधन के संबद्ध नियोजको और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सह-श्रम-न्यायालय, जबलपुर के पंचाट (एलसी-आरसी/10/2020) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07/08/2024 को प्राप्त हुआ था।

[सं. एल-22013/01/2024-आई.आर. (सी.एम-II)]

मणिकंदन. एन, उप निदेशक

## MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 13th August, 2024

**S.O. 1611**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Reference. LC/-RC/10/2020**) of the **Central Government Industrial Tribunal-cum-Labour Court, Jabalpur** as shown in the Annexure, in the industrial dispute between the Management of **Isha Protections Security Guard** and their workmen, received by the Central Government on **07/08/2024**

[No. L-22013/01/2024 – IR (CM-II)]

MANIKANDAN. N, Dy. Director

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT,  
JABALPUR

NO. CGIT/LC/RC/10/2020

Present: P.K.Srivastava

H.J.S..(Retd)

Mrs. Bhavna Yadav,

W/o Manoj Yadav, M.No.125. M.2/D. Sector

Kheda Hazur Bhopal (M.P.)

Workman

**Versus**

**The Director,  
All India Institute of Medical Sciences,  
Saket Nagar, Bhopal (M.P.)**

**M/s Isha Protections Security Guard,  
Plot No. 5-3, 275 Sector A- Sarvadharm Colony  
Kolar Bhopal (M.P.)**

**Management****(J U D G E M E N T)****(Passed on this 12<sup>th</sup> day of July 2024)**

The workman has filed petition Under Section 2-A (2 & 3) of the Industrial Disputes Act, against her alleged illegal termination with a case that she was appointed as Assistant by management of AIIMS her services were terminated without any notice or compensation on 22/05/2018 though she has worked for 240 days in every year hence the termination was against 25F of the Act.

The Case of Management of AIIMS is that she was engaged by the outsourcing agency M/s Isha Protections Security Guard and has appointed by the outsourcing agency itself her service were terminated by the outsourcing agency, No documents or oral evidence has been field by workman to prove her case.

Hence the Initial burden to prove her claim is on the workman. Since the workman did not file any evidence, in the absence of any evidence in support of holding the claim of workman not proved the petition deserves to be answered against the workman and is answered accordingly.

**AWARD**

**In the light of this factual backdrop, holding that the claim of the workman is not proved, the petition deserves to be answered against the Workman and is answered accordingly.**

Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

**DATE:- 12/07/2024****P. K. SRIVASTAVA, Presiding Officer****नई दिल्ली, 14 अगस्त, 2024**

**का.आ. 1612.—**औद्योगिक विवाद अधिनियम 1947 (1947 का 14 ) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जबलपुर के पंचाट (05/2007) प्रकाशित करती है।

**[सं. एल-12012/76/2006-आई आर (बी-1)]****सलोनी, उप निदेशक****New Delhi, the 14th August, 2024**

**S.O. 1612—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.05/2007) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur* as shown in the Annexure, in the industrial dispute between the management of State Bank of India their workmen.

**[F. No. L-12012/76/2006- IR(B-I)]****SALONI, Dy. Director**



## ANNEXURE

## THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

Present: P.K.Srivastava

H.J.S..(Retd)

NO. CGIT/LC/R/05/2007

Shri Kalidas Bhaina

Ex-employee of State Bank of India

Gali No.-4, Bengalipara, New Sarkanda

Bilaspur (C.G.)

Workman

Versus

1. The Deputy General Manager  
State Bank of India, Zonal Office  
Jabalpur (MP)
2. The Assistant General Manager  
State Bank of India, Regional Office  
Shahdol (MP)
3. The Branch Manager  
State Bank of India  
At & P: Manendragarh, Distt. Surguja (CG)

Management

## JUDGEMENT

(Passed on this 24<sup>th</sup> day of July-2024)

Vide letter dated 15/12/2006 by the Government of India, Ministry of Labour, New Delhi, the following reference as per Notification No. L-12012/76/2006-IR(B-1) has been sent to this Court for adjudication. The dispute under reference relates to:

**“Whether the action of the management of State Bank of India Shahdol (M.P.) in removing Shri Kahnhaiyalal Baina, Assistant (Cash/Accounts) State Bank of India, Manendragarh Branch Dt. Surguja (CG) from the services is legal and justified? If not, to what relief, the workman is entitled to?”**

**The case of the workman** in brief is that while he was working as Clerk with the Bank in Manendragarh Branch, he left the Branch on 19-1-1997 to appear in departmental exam and came back on 22-1-1997. He had to leave the head quarter because he received a telegram on 22-1-1997 regarding serious illness of his father from Bilaspur. He could not join his job and sent various applications regarding leave. He came to know by the general notice published in Navbharat Newspaper on 20-11-1997 regarding his alleged unauthorized absence and his removal from services from 21-7-1997. The Management issued a charge sheet on 8-7-1997 asking him to explain the charges. The workman did submit his explanation. The Management issued a supplementary charge sheet dated 22-1-1999 and an inquiry was conducted with respect to the charge sheet dated 8-7-1997 and supplementary charge sheet dated 22-1-1999. The case of the workman is that he was not given proper opportunity to defend himself during the inquiry and punishment was disproportionate.

**The case of the management** is that on 22-1-1997 the workman left leaving an application for two days leave. He remained absent till September-1997. He was issued a charge sheet on 8-7-1997 regarding two charges, one regarding purchase of demand draft unauthorized without their being sufficient fund in his account and second his frequent unauthorized absent from 1990 to 1997. He was asked to submit reply to the charge sheet within 15 days. He

submitted his reply on 26-9-1997 and admitted the charges in substance. He also submitted an additional reply to the charge sheet on 6-10-1997. A supplementary charge sheet was issued to the workman on 22-1-1999 with certain amendment in the charge sheet served on the workman earlier and Shri V.R.Joshi was appointed as Inquiry Officer and Shri S.C.Verma was appointed as the Presenting Officer. The Inquiry was duly conducted by the Inquiry Officer giving the workman full opportunity of defence. The charges were found proved during the inquiry and after receiving the reply on show cause notice were issued by the Disciplinary Authority, the order of punishment was passed by Disciplinary Authority. Also after giving the workman the opportunity of personal hearing. Thus according to the Management, there was no illegality in the inquiry. The inquiry was conducted as per principles of natural justice.

Following issues were framed by my learned Predecessor vide his order dated 10-2-2015.

1. **Whether the enquiry conducted against the workman is proper and legal?"**
2. **Whether charges alleged against workman is proved from evidence adduced in inquiry proceedings ?**
3. **Whether punishment of dismissal imposed against workman is proper and legal ?**
4. **If so, to what relief the workman is entitled ?**

The Issue No. 1 Was taken as preliminary issue and parties were asked to lead evidence.

The workman examined himself on oath on preliminary issue and was cross-examined by the management. The Management has examined its witness Chief Manager Ramakant Mishra on oath. He has filed his affidavit as his Examination in Chief.

The workman has filed photocopy documents which are mainly the inquiry papers, admitted by Management, and have been marked as Exhibit W1 to W-16. The Management has failed photocopy papers Exhibit M1 admitted by workman.

After hearing both the sides on preliminary issue no.-1, it was decided vide order dated 15.03.2022 holding the departmental inquiry legal and proper. This order is part of this award.

Parties were asked to file evidence on remaining issues. The workman filed an affidavit which was not relevant to the remaining issues. I have heard argument learned Counsel for workman Shri Shaikat Ali. Learned Counsel for management Shri Ashish Shrotri has preferred written arguments the workman also has filed written argument. I have perused the written arguments as well as the record.

**Issue No.-2 :-**

The charges against the workman were as follows :-

1. ***That, he purchased two Demand Drafts details given in charge-sheet from his SB Account No. 8491 without depositing the amount of the drafts, thus committed misconduct under para 521 of Shastri Award.***
2. ***He wilfully absented himself from duty since 27.01.1997 till date of charge-sheet i.e., 08.09.1997. Further he is in the habit of absenting himself from duty without getting any leave sanctioned and without informing management. His absence was 265 days before 1990 and 1414 days after 1990 till 28.11.1996 which is misconduct.***

It comes out from perusal of inquiry papers that the workman admitted the charges during the inquiry. He further stated that he remains ill due to various ailments. His father also remained sick for a long time, he had at sometimes, informed the management also. It has been submitted from the side of workman that no evidence were adduced by management during inquiry in support of these charges. When the workman himself admitted the charges i.e., the fact of his absence without getting any leave sanctioned and without informing management as well as the charge that he purchased demand drafts without having sufficient funds for this in his account, the burden lied on the workman to prove during the inquiry that his absence was not wilful and also that there were sufficient funds in his account for purchase of the demand drafts. He did not lead any such evidence.

The settled principle of law regarding proof of charge in a departmental inquiry is that it need not be proved beyond doubt. Judging the evidence as discussed, it can be safely held that the charges are proved against the workman. Hence, holding the charges proved, issue no.-2 is answered accordingly.

**Issue No.-3 :-**

The charge no.-1 relates to the integrity of the workman. Charge no.-2 speaks about non-devotion towards duty shown by the workman.

Learned Counsel for management has referred to judgment of Hon'ble the Apex Court in **Chennai Metropolitan Water Supply and Sewerage Board vs. T.T. Murali Babu, (2014) 4 SCC 108**. Para 30 which is being reproduced as follows :-

**This extract is taken from Chennai Metropolitan Water Supply & Sewerage Board v. T.T. Murali Babu, (2014) 4 SCC 108 : (2014) 1 SCC (L&S) 38 : 2014 SCC OnLine SC 113 at page 121**

**“30. In Coal India Ltd. v. Mukul Kumar Choudhuri [Coal India Ltd. v. Mukul Kumar Choudhuri, (2009) 15 SCC 620 : (2010) 2 SCC (L&S) 499], the Court, after analysing the doctrine of proportionality at length, ruled thus : (SCC p. 634, paras 19-21)**

**“19. The doctrine of proportionality is, thus, well-recognised concept of judicial review in our jurisprudence. What is otherwise within the discretionary domain and sole power of the decision-maker to quantify punishment once the charge of misconduct stands proved, such discretionary power is exposed to judicial intervention if exercised in a manner which is out of proportion to the fault. Award of punishment which is grossly in excess to the allegations cannot claim immunity and remains open for interference under limited scope of judicial review.**

**20. One of the tests to be applied while dealing with the question of quantum of punishment would be : Would any reasonable employer have imposed such punishment in like circumstances? Obviously, a reasonable employer is expected to take into consideration measure, magnitude and degree of misconduct and all other relevant circumstances and exclude irrelevant matters before imposing punishment.**

**21. In a case like the present one where the misconduct of the delinquent was unauthorised absence from duty for six months but upon being charged of such misconduct, he fairly admitted his guilt and explained the reasons for his absence by stating that he did not have intention nor desired to disobey the order of higher authority or violate any of the Company's rules and regulations but the reason was purely personal and beyond his control and, as a matter of fact, he sent his resignation which was not accepted, the order of removal cannot be held to be justified, since in our judgment, no reasonable employer would have imposed extreme punishment of removal in like circumstances. The punishment is not only unduly harsh but grossly in excess to the allegations.”**

**After so stating the two-Judge Bench proceeded to say that one of the tests to be applied while dealing with the question of quantum of punishment is whether any reasonable employer would have imposed such punishment in like circumstances taking into consideration the major, magnitude and degree of misconduct and all other relevant circumstances after excluding irrelevant matters before imposing punishment.”**

The misconduct provides punishment of dismissal. Keeping in view the nature of the charges proved in the light of proposition of law as discussed in the referred case, the punishment awarded cannot be held disproportionate to the extent to warrant interference by this Tribunal. Hence, holding the punishment proportionate to the charge, issue no.-3 is answered accordingly.

**Issue No.-4 :-**

In the light of above discussion, the workman is held entitled to no relief.

The reference is answered as follows.

**AWARD**

**Holding the action of the management of State Bank of India Shahdol (M.P.) in removing Shri Kahnhaiyalal Baina, Assistant (Cash/ Accounts) State Bank of India, Manendragarh Branch Dt. Surguja (CG) from the services is legal and justified, the workman is held entitled to no relief.**

**No order as to cost.**

DATE:- 24/07/2024

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 14 अगस्त, 2024

**का.आ. 1613.**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14 ) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जबलपुर के पंचाट (23/2011) प्रकाशित करती है।

[सं. एल-12012/19/2010-आई आर (बी-1)]

सलोनी, उप निदेशक

New Delhi, the 14th August, 2024

**S.O. 1613**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.23/2011) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur* as shown in the Annexure, in the industrial dispute between the management of State Bank of India their workmen.

[No. L-12012/19/2010- IR(B-I)]

SALONI, Dy. Director

#### ANNEXURE

#### THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/23/2011

Present: P.K.Srivastava

H.J.S..( Retd)

Shri Brijesh Kumar

At Dhobi Tanki, Harijan Basti

Distt.- Rewa (M.P.)

Workman

Versus

The Branch Manager

State Bank of India,

Branch Rewa, Distt.-Rewa (M.P.)

Management

#### A W A R D

(Passed on this 30<sup>th</sup> day of July-2024.)

As per letter dated 01/04/2011 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under section-10 of I.D. Act, 1947 as per reference number L-12012/19/2010/IR(B-I) dt. 01/04/2011. The dispute under reference related to :-

**“Whether the action of the management of State Bank of India, Main Branch, Rewa in terminating the services of Shri Brijesh S/o. Shri Lallu w.e.f. 27/9/2007 is legal and justified ? To what relief the workman is entitled ?”**

After registering the case on the basis of the reference received, Notices were sent to the parties and were duly served on them. They appeared and filed their respective statements of claim and defense.

**The case of the workman**, in short is that the workman was appointed as Peon in Main Branch at Rewa on January 2001. He worked continuously till September 2007. Thereafter he was terminated without notice or wages in lieu of one month notice and without payment of retrenchment compensation, in violation of the provision of Section 25-F of the Industrial Disputes Act, 1947 (in short the Act, 1947). He had worked more than 240 days as required under Section 25-B of the Act, 1947. He worked for 240 days and more in every year continuously and has thus

acquired the status of permanent employee. He was not paid wages in the light of Bipartite Settlement which he was entitled to. He requested that holding his termination against law, he be held entitled to be reinstated with all back wages and benefits.

**The case of the management**, inter alia, is that the alleged workman was neither employed as permanent employee nor attained permanent status. He worked as a casual worker for supply of water for few hours in a day as and when required in branch of the Bank and was paid for it. The provisions of the Section 25-F of the Act 1947 is not applicable and therefore, the question of giving notice or payment of retrenchment compensation does not arise. It has been further pleaded that the workman was a daily wager, engaged not on regular basis but subject to availability of work and also that he was not appointed against any sanctioned vacancy following recruitment process. It was prayed that the reference be answered against the workman.

In evidence, the workman has not filed his affidavit. He has filed some photocopy documents admitted by management which are not admitted by management. He has not cared to prove these documents.

Management filed affidavit of its witness which is uncross examined.

None appeared for workman at argument stage. Learned Counsel Mr. Praveen Yadav for management appeared and submitted his argument. I have gone through the record.

The reference itself is the issue for determination.

The initial burden to prove its case is on the workman union. Only filing of photocopy documents and not proving them inspite of opportunity given to prove them by secondary evidence as well not filing any affidavit even of the workman or any other witness in support of the allegations in the statement of claims shows that the workman union has miserably failed to discharge this burden.

**Hence, holding the claim of the workman not proved, the reference deserves to be answered against the workman and is answered accordingly. No order as to cost.**

**DATE: 30/07/2024**

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 16 अगस्त, 2024

**का.आ. 1614.**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14 ) की धारा 17 के अनुसरण में केन्द्रीय सरकार दक्षिण बिहार ग्रामीण बैंक के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय पटना के पंचाट [25 ( C ) of 2022] प्रकाशित करती है।

[सं. एल-12011/22/2022-आई आर (बी-1)]

सलोनी, उप निदेशक

New Delhi, the 16th August, 2024

**S.O. 1614**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award [Ref. 25 ( C ) of 2022] of the *Indus.Tribunal-cum-Labour Court Patna* as shown in the Annexure, in the industrial dispute between the management of Dakshin Bihar Gramin Bank their workmen.

[No. L-12011/22/2022- IR(B-I)]

SALONI, Dy. Director

#### ANNEXURE

Before The Presiding Officer, Industrial Tribunal, Patna.

#### Reference Case No.:-25 (C) of 2022

Between the management of the Chairman, Dakshin Bihar Gramin Bank, Head Office, Shri Vishnu Commercial Complex, Asochak, New Bypass Road, NH 30, Patna (Bihar), -800016 And their workman Shri Pramod Kumar Choudhary, represented by the President, Bank Employees Federation, Bihar, Saboo Complex, 2<sup>nd</sup> Floor, Behind Republic Hotel, Exhibition Road, Patna (Bihar)—800001.

For the management:- Sri Aman Sheoran ( Manager ).  
For the workman:- Sri. B. Prasad, President Bank Employees Federation,Bihar.  
Present:-

**Manoj Shankar**  
**Presiding Officer,**  
**Industrial Tribunal, Patna.**

**A W A R D**

**Patna, dt-5th July, 2024.**

By the adjudication order no.- L-12011/22/2022-IR(B-I) New Delhi, dated- 10.06.2022 the Govt. of India Ministry of Labour New Delhi has referred under clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Dispute Act, 1947, ( hereinafter to be referred to as “ the Act”) the following dispute between the management of the Chairman, Dakshin Bihar Gramin Bank, Head Office, Shri Vishnu Commercial Complex, Asochak, New Bypass Road, NH 30, Patna (Bihar), -800016 And their workman Shri Pramod Kumar Choudhary, represented by the President, Bank Employees Federation, Bihar, Saboo Complex, 2<sup>nd</sup> Floor, Behind Republic Hotel, Exhibition Road, Patna (Bihar—800001 for adjudication to this tribunal.

**SCHEDULE**

“ Whether the action of the management of the Dakshin Bihar Gramin Bank, Patna on the imposition of the punishment by demoting Shri Pramod Kumar Choudhary, Chhabilapur Branch, Dist. Nalanda to the lower post of office Assistant from officer grade is just and proper? If not, what relief the workman concerned is entitled to?”

2. After receipt of the reference notification, notice were issued to the concerned parties and both parties appeared before this tribunal. Statement of claim was filed on behalf of the workman side and management side filed their respective written statement.

3. On 29.05.2024 workman Shri Pramod Kumar appeared before this tribunal and filed a withdrawal petition and representative of the management filed reply to the withdrawal petition on 06.06.2024. Heard both sides on the aforesaid petition.

4. Perused the case record. From perusal of the case record, workman himself Sri Pramod Kumar Choudhary appeared before this tribunal on 06.06.2024 and submitted that his dispute was referred by the Govt. of India Ministry of Labour New Delhi to this tribunal vide adjudication order no.- L-12011/22/2022-IR(B-I) New Delhi, dated-10.06.2022. It is further submitted that the applicant is now convinced that this is not the competent forum for the matter, he has raised for its redressal, so he has to move his issues before e competent court, for the purpose, he wants to withdraw his instant case and he also prays to accept his withdrawal petition dt- 29.05.2024 filed in connection with this case. On the other hand, representative of management bank submitted that the alleged workman Sri Pramod Kumar Choudhary filed a withdrawal petition of his case on 29.05.2024 for the reason this tribunal does not have jurisdiction to adjudicate the dispute of an officer. It is also submitted from the management side that management of the bank has no objection on the said withdrawal application and further under takes to with draw the writ petition CWJC No.- 16264 of 2023 filed from the management side before Hon’ble High Court Patna and it is also prayed a necessary award may be kindly be passed in the light of the withdrawal application filed by the workman Sri Pramod Kumar Choudhary.

5. Considering all the facts & submissions as advanced on behalf of the both sides, this tribunal finds that this reference case was received to this tribunal on 27.06.2022 to adjudicate issue referred by the appropriate Government with the Schedule “ Whether the action of the management of Dakshin Bihar Gramin Bank, Patna on the imposition of the punishment by demoting Shri Pramod Kumar Choudhary, Chhabilapur Branch, Dist. Nalanda the lower post of office Assistant from officer grade is just and proper? If not, what relief the workman concerned is entitled to?” This tribunal further finds that the management bank has preferred CWJC No.- 16264 of 2023 before the Hon’ble Court to quash the reference order sent by appropriate Govt. this tribunal further finds and hold the workman Sri Pramod Kumar Choudhary is an officer of Junior management scale-01 group and this tribunal has no jurisdiction to entertain the dispute of an officer grade. This tribunal further finds that there is no stay order passed by the Hon’ble Court in CWJC No.- 16264 of 2023 yet. Now, Sri Pramod Kumar Choudhary the workman himself reported that this tribunal is not the competent forum to adjudicate his dispute, so he wants to withdraw his case and the management side also reported that the management of bank has no objection on the said withdrawal application and further undertakes to withdraw its writ petition CWJC No.- 16264 of 2023 filed in the Hon’ble Court . Under the aforesaid facts and taking into consideration of withdrawal petition filed by the workman Sri Pramod Kumar Choudhary on the jurisdiction matter, there is no need to continue this case henceforth, so as per the aforesaid reasons this tribunal has no option than to pass “No Dispute Award” on being lack of jurisdiction. So “ No Dispute Award” passed in this case accordingly. This award is effected after date of publication in gazette.

This is my award accordingly.

Dictated & Corrected by me.

Sd/- 05.07.2024

MANOJ SHANKAR, Presiding Officer

नई दिल्ली, 16 अगस्त, 2024

**का.आ. 1615.**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14 ) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (63/2019) प्रकाशित करती है।

[सं. एल-12011/20/2019- आई आर (बी-1)]

सलोनी, उप निदेशक

New Delhi, the 16th August, 2024

**S.O. 1615**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.63/2019) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India their workmen.

[No. L-12011/20/2019- IR(B.I)]

SALONI, Dy. Director

#### ANNEXURE

#### IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 12<sup>th</sup> day of June, 2024

**INDUSTRIAL DISPUTE No. 63/2019**

Between:

The General Secretary,  
United Security Guards Union,  
D.No. 41-1/12-57,  
Nehru Nagar, Satyamgari Doddi,  
Krishnatanka,  
Vijaywada-520013.

.....Petitioner

AND

1. The Manager,  
M/s Orion Security Solutions Pvt. Ltd.  
No: 5E, Ist Floor, Jungi House,  
Street No 5, B.S.E.S. Power Station,  
Shashapur Jat,  
New Delhi-110049.

2. The Branch Manager,  
SBI, Kolluru (M)  
Guntur-522411.

... Respondents

Appearances:

For the Petitioner : None

For the Respondent: Shri Y Ranjeet Reddy, Advocate of R2

### A W A R D

The Government of India, Ministry of Labour by its order No.L-12011/20/2019 (IR(B-I)) Dated 11/07/2019 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s Orion Security Solutions Pvt. Ltd. & State Bank of India and their workmen. The reference is,

### SCHEDULE

“Whether the action of the management of M/s Orion Security Solutions Pvt. Ltd., New Delhi a contractor of State Bank of India in terminating the service of Sri R.Satyanandam w.e.f. 31.09.2018 legal or not? If not, to what relief the workman is entitled to?”

The reference is numbered in this Tribunal as I.D. No. 63/2019 and notices were issued to the parties concerned.

2. Petitioner absent on the date fixed for filing of claim statement and documents. Record reveals that notice sent to petitioner returned un-served with endorsement as addressee left hence returned to sender. In spite of providing sufficient opportunity no claim statement is filed. Hence, a ‘no-claim’ award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Shri Vinay Panghal, LDC corrected by me on this the 12<sup>th</sup> day of June, 2024.

IRFAN QAMAR, Presiding Officer

### Appendix of evidence

Witnesses examined for the  
Petitioner

Witnesses examined for the  
Respondent

NIL

NIL

### Documents marked for the Petitioner

NIL

### Documents marked for the Respondent

NIL

नई दिल्ली, 16 अगस्त, 2024

**का.आ. 1616.**—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार क्षेत्रीय प्रबंधक, राष्ट्रीय बीज निगम लिमिटेड, लालगुडा, सिकंदराबाद; क्षेत्र प्रबंधक, राष्ट्रीय बीज निगम लिमिटेड, औद्योगिक एस्टेट, कुरनूल, के प्रबंधन के संबंध में नियोजकों और श्री डी.टी.वी. रामकृष्ण रेड्डी, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- हैदराबाद पंचाट(संदर्भ संख्या 62/2007) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16/08/2024 को प्राप्त हुआ था।

[फा. सं. एल - 42011/116/2007-आईआर(डीयू)]

दिलीप कुमार, अवर सचिव



New Delhi, the 16th August, 2024

**S.O. 1616**—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. ID. No. 62/2007) of the **Central Government Industrial Tribunal cum Labour Court— Hyderabad** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Regional Manager, National Seeds Corporation Ltd., Lalaguda, Secunderabad; The Area Manager, National Seeds Corporation Ltd., Industrial Estate, Kurnool, and Shri D.T.V. Rama Krishna Reddy, Worker**, which was received along with soft copy of the award by the Central Government on 16/08/2024.

[No. L-42011/116/2007-IR (DU)]

DILIP KUMAR, Under Secy

#### ANNEXURE

#### IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: **Sri IRFAN QAMAR**, Presiding Officer

Dated the 2<sup>nd</sup> day of August, 2024

#### INDUSTRIAL DISPUTE No. 62/2007

Between:

Sri D.T.V. Rama Krishna Reddy,  
CITU Office, 2/7, Brodipet,  
Guntur – 520 002

..... Petitioner/Union

AND

1. The Regional Manager,  
National Seeds Corporation Ltd.,  
Tukaram Gate, Lalaguda,  
Secunderabad.
2. The Area Manager,  
National Seeds Corporation Ltd.,  
Auto Nagar,  
Guntur.

... . Respondents

Appearances:

For the Petitioner : Sri M. Pitchaiah, Advocate

For the Respondent: Sri Dr. K. Laxmi Narasimha, Advocate

#### A W A R D

The Government of India, Ministry of Labour by its order No. L- 42011/116/2007-IR(DU) dated 6.11.2007 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of National Seeds Corporation Ltd., and their workmen. The reference is,

#### SCHEDULE

“Whether the demand of the National Seeds Workers Union for extending the benefit of VSS Scheme to Shri A. Samrajyan & 72 other workmen, as per Annexure, at par with 15 other workers, who have received these benefits, is legal and justified? If yes, to what relief the workmen are entitled to?”

The reference is numbered in this Tribunal as I.D. No. 62/2007 and notices were issued to the parties concerned.

#### 2. The averments made in the claim statement are as follows:

It is submitted that the claimant is a registered trade union bearing registered No.2262 under the provisions of Trade Union Act, espousing the cause of workmen employed in the management industry. It is submitted that the management industry was established by the Government of India whose objectives inter alia are providing quality seeds to the farming community with a view to promote highest productivity in agriculture. The management would

purchase raw seeds from the farmers and purify it in their machines by using chemicals and oils and manufacturers purified seeds of various crops such as, Jute, Cotton, Mirchi, Maize, etc.. and sell it in packs of 2 or 4 kgs to the farmers. It is submitted that in this process, the management employed various categories of workmen all over India including its branch at Guntur. There are about thousands of workmen on the roles of management industry all over India. Further, it is submitted that there are about 8 permanent employees and the roles of management industry at Guntur. It is submitted that originally there were about 90 Workmen on the roles of management at Guntur. Out of these 90, 15 opted for VSS scheme and they were accordingly retired from service. It is submitted that the remaining Workmen covered by the present reference and their descriptive particulars, their dates of joining an other service particulars are furnished and the same may be read as part of this claim statement. These workmen have been discharging the duties of cleaning the seeds by putting the seeds into the machines of the management, packing them in specified quantity of packs, weighing them, sealing and stamping them and other manual and unskilled duties. These workmen have put in considerable years of service, range in from 22 years to 16 years of service, though the work in which they were employed is perennial in nature. They were deprived of rights and benefits of permanent workmen. Each workman was paid Rs.107.75 ps per day. Employing these workmen as casual our daily wage for years together without conferring and then the status of permanent Workman is unfair labour practice under item No.10, 5<sup>th</sup> Schedule of ID Act. These workmen are also entitled to pay scales on the principle of equal pay for equal work. But the management has dodged the issue on one pretext or other. While so, it is submitted that the management introduced VSS scheme inviting applications from the workmen to opt for VSS scheme. Accordingly, out of these 90 workmen, 15 workmen who joined the management on or before 1.11.1986 opted for VSS scheme and they were voluntarily retired and got benefits. It is submitted that the management alleges that VSS scheme cannot be applied to the workmen joined prior to 1.11.1986 but one Sri Gaddam Devdas, a daily wage worker at Warangal of the same management who joined on 17/11/1987 was extended the benefit of VSS scheme as per the proceedings dated 22.2.2005, amounts to discrimination and hostile treatment. Under this scheme whoever opts for VSS will be given 45 days wages for every year of service apart from other benefits. But the workmen under reference were not given the benefits under the said scheme since 2 years the workmen were not given work though, they have been going to the work spot everyday. It is submitted that in absence of mandatory procedure laid down under the provisions of I.D.Act being followed, these workmen are deemed to be in service. On the other hand, the employer is understood to have outsourced the work by engaging contractors for carrying its operations. It is further submitted that these workmen should either be retrenched, laid off or be sent on VSS. It is submitted that the claimant Union has requested the management number of times for extending the benefit of VSS to these workmen, but in vain. It is submitted that these workmen are put to immense loss and hardship as they are the bread winners of their respective families and despite repeated demands made by the claimants, the management sticking to its guns either by not laying off or retrenching or giving by VSS benefits. Therefore, it is prayed to direct the management to pay the said VSS benefits to these workmen with interest and wages for the period during which these workmen had to remain under forceful unemployment, etc..

3. **Respondent filed counter denying the averments of the Petitioner as under:**

It is submitted that the NSC Guntur used to engage workers on daily wage basis on seasonal basis to meet the labour requirement of processing, packing, grading activities, CTC. Only on actual need basis and minimum wages were paid to the workers engaged on daily basis as per the Minimum Wages Act and also the minimum wages fixed by the Government of AP. The workers engaged on gate employment, casual workers are not regular workers but seasonal one. The climate workmen are not regular workers at all of Respondent company. The Workman under reference cannot be converted to permanent status. The employment rules for recruiting permanent staff are all different and only such of those persons who are recruited in terms of such procedures alone can be termed as permanent workmen and not the claimant. It is submitted that as per respective head office circular No. DO No.17(2)/85 –Pers/NSC dated 1.12.1989 engagement of daily wage workers is totally banned, whenever there is urgency Respondent used to take casual labour on gate employment. Since EPF and ESI is a mandatory, Respondent used to extend the facility and casual workers are free to work in any establishment and who are engaged after 1.11.1986 are not entitled to any benefits since they are casual daily wage workers engaged on gate employment.

- i) A worker who has completed 10 years of service may seek Voluntary Separation by a return request who joined prior to 1.11. 1986.
- ii) The management of. National Seeds Corporation Limited will have the right not to grant voluntary separation for reasons to be recorded in writing.
- iii) The terminal payments available to a worker who seeks voluntary separation, would be as follows:-
  - a) The balance in his Provident fund account payable as per the EPF regulations;
  - b) Cash equivalent of accumulated privilege leave, if any as per provisions of the Shops & Establishment Act or the Factories Act, as the case may be;
  - c) gratuity as per Gratuity Act /the payment of Gratuity Rules of NSC, Ltd.,
  - d) One months notice pay if the worker concerned is relieved on the date of receipt of option.

- e) A worker whose request for voluntary separation is accepted would be entitled to an ex-gratia payment equivalent of 1 ½ months emoluments (wages + D.A., if any) for each completed year of service or monthly emoluments at the time of separation multiplied by the balance months of service left before normal date of retirement, whichever is less. For example, if a worker has put in 10 years of service and has got only one year of service for normal retirement, will get exgracia payment of only 12 months emoluments and not 15 months emoluments;
- f) In addition, the worker and his family would also be entitled to travel by rail or bus by the lowest class to the place where he intends settling down. Reimbursement of bus or rail fare, as the case may be, will be limited to actuals.

Further, it is submitted that only such of those persons who come under the scheme are entitled for VSS. The Workmen of the Union do not come within the four corners of the VSS and therefore they are not entitled to any relief. The claimant Workmen do not fall under the scheme. For the reason that, "All these casual workers were engaged on need basis under gate employment as and when the seeds are to be graded and packed and these are not our regular workers. That it is a mandatory to deduct EPF and ESI from the persons engaged again they work engaged below 10 days in a month. They were free to work any other establishment and we do not have binding on employer and employee relationship. Since the persons have not completed minimum number of days working in a year. Hence the said workers are not entitled to any VSS benefits." It is further submitted that the claim of the claimants that 15 persons who have joined the company on or before 1.11.1986 opted for VSS scheme and they were voluntarily retired and given the benefit of VSS scheme is correct, but that is because their cases fall under the scheme and hence they have been given the benefit of VSS. Whereas the claimant Workmen do not come under the VSS and therefore they were not given the benefit of the VSS. It is further submitted that Mr Gaddam Devdas is not made party in this ID and therefore no relief can be claimed on par with him. Further, even assuming but not conceding that the said Devdas was given the benefit but it is contrary to the VSS and no relief contrary to VSS can be given. It is submitted that no illegality can be perpetrated and hence the said claim is wholly untenable. Further, it is submitted that VSS is a scheme for leaving the services of the company and not for reinstatement in the company. It is submitted that it is a matter of discretion of the management and not the Workmen and workmen have got no right that their VSS should be accepted. Hence it is prayed to reject the industrial dispute.

**4. On the basis of rival pleadings of both the parties following issues emerge for consideration in the present matter:-**

- I. Whether the Demand of the NSC Workers Union for extending the benefit of VSS scheme to Smt. A. Samrajyam and 72 other workmen as per annexure, at par with 15 other workers who have received these benefits is legal and justified?
- II. To what relief the workmen are entitled for?

**Findings:-**

5. **Point No.I:-**In the present matter, claim statement has been filed by the workmen representative on behalf of all workmen through National Seeds Corporation Workers Union, Guntur demanding the benefit of VSS scheme at par with 15 other workmen who were granted the benefit under the scheme. In support of the plea of claim statement workman Smt. Bondalapati Varalakshmi has filed chief affidavit wherein she deposed that, originally in the Respondent management there were 90 workmen on the rolls and out of these, 15 opted for VSS scheme and they were accordingly retired from Service. Witness WW1 further deposed that workman joined the service on 29.1.1990 and is employed till date. The names of the remaining workmen who covered by the present reference and their respective particulars, their dates of joining, and other service particulars are furnished in the annexure and a separate list has been filed herewith and the same may be read as part of this claim statement. Witness further deposed that these workmen have been discharging the duties of cleaning the seeds by putting the seeds into the machines of the management, taking them in specified quantity of packs, weighing them, sealing and stamping them, and other manual and unskilled duties. Further, witness workman stated that these workmen have put in considerable years of service ranging from 22 years to 16 years of service. Witness also deposed that the duties discharged by these workmen were regular, and the work in which they were employed is perennial in nature and they were deprived of rights and benefits of permanent workmen. Further witness states that each Workman was paid Rs.107.75 ps.per day. There are certain other workmen who are discharging the same duties and who were given pay scales. Further, Witness states that these workmen are employed either as casual or daily wage for years together without conferring them the status of permanent workmen, which is unfair labour practice adopted by the Respondent under item No.10 of 5<sup>th</sup> Schedule of I.D. Act. WW1 further states that Respondent introduced VSS scheme about some time back, inviting applications from the workmen to opt for VSS scheme. Accordingly, out of these 90 workmen, 15 workmen who joined the management on before 1.11.1986 opted for VSS scheme and they were voluntarily retired and they were given benefits. The management alleges that VSS scheme cannot be applied to the Workman joined prior to 1.11.1986 but one Sri Gaddam Devdas, a daily wage worker at Warangal of the same management who joined on

17/11/1987 was extended the benefit of VSS scheme as per the proceedings dated. 22.2.2005. Witness states that the action of the management in extending the benefit of workmen at Warangal and depriving the same to the Workmen at Guntur amounts to discrimination and hostile treatment. Further witness states that under this scheme, whoever opts for VSS will be given 45 days wages for every year of service apart from other benefits. The said 15 workmen were accordingly paid but the Workmen covered by the reference though opted for VSS, were not given the benefits under the said scheme. The witness has also filed documents in evidence that has been exhibited by the workman. The documents Ex.W1 is List of workmen in which details of service particulars of workmen i.e., their dates of joining, EPF number, ESI identity card number and nature of work performed by them is enumerated. Ex.W2 is the bunch of ESI identity cards and annual EPF statement of the workers listed in Ex.W1. Document Ex. W3 is the memorandum dated 23.6.2007 extending voluntary retirement benefit to worker namely J Nageswara Rao, S/o David and others. This witness WW1 was cross examined by the Respondent Counsel and in her cross examination witness states that it is true that she has written her date of joining as 29.1.1990 and she has not filed any other affidavit claiming another date of joining in the management of NSCL. Further, witness states that the management has given the compensation to those employees who sought VRS in first and second list and the witness sought VRS in 3<sup>rd</sup> list and she did not get any compensation. Witness also states that earlier list of the employees who were given VRS and compensation were seniors to her. Further witness also admitted that she is aware that VRS scheme applicable to those employees who were employed prior to 1986. Thus, from the above statement of the witness, it is established beyond doubt that VSS scheme was introduced by the Respondent management for the workmen. But the benefit of VSS scheme was not extended to the workmen whose names and details is mentioned in the Ex.W1. Document Ex.M1 is the circular dated 17.9.1993 issued by National Seeds Corporation Ltd., for introduction of Voluntary Separation scheme (VSS) in respect of daily paid workers/ persons engaged on consolidated wages, goes to reveal that the NSCL has introduced voluntary separation scheme in respect of the daily paid workers /persons engaged on consolidated wages. The salient feature of the scheme was that it was applicable for those workers who have completed 10 years of service and they can seek voluntary separation by a written request to the management. Admittedly, the Workmen, as mentioned in the list annexed to the claim statement Ex.W1, have completed more than 10 years of the service in the Respondent corporation and it is also undisputed that all the workmen mentioned in the list Ex.W1 have applied for VSS scheme.

6. On the other hand, Respondent has examined witness MW1 Sri Radhe Shyam and this witness in his Sworn testimony stated that only list of those persons who come under the scheme are entitled for VSS. MW1 states that these claimants do not come under the VSS scheme and therefore they are not entitled to any relief. Further, witness states that the VSS scheme was not questioned and hence in the absence of the same the VSS scheme will have to be enforced as it is the claimant Workmen who comes under the VSS Scheme and who do not fall under the scheme. The names of these workmen is mentioned in the para 16(1) of chief affidavit, from Serial Nos.1 to 73 Further, MW1 has stated that,

*“These workers were engaged on seasonal basis and need basis for less than 120 days in a year, for less than 10 years under gate employment, as and when seeds are to be graded and packed. As per NSC policy, VSS is applicable to the workers who worked more than 120 days in a year for minimum 10 years. So, VSS was not considered to these workers by NSC vide communication dated 26<sup>th</sup> June 2007. The workers were free to work in any other factory and not binding with employee employer relationship. NSC opened 1<sup>st</sup> VSS from 29.10.1993 for 60 days. So it was clear to these workers that nature of employment in NSC is purely temporary and seasonal. Later on, 2<sup>nd</sup> VSS opened from 1.2.1996 to 30.9.96 and 3<sup>rd</sup> VSS Opened from 8<sup>th</sup> May 2000 for 60 days. As per labour laws, workers who have not completed 240 days in each year continuously for 5 years cannot claim ex-gratia / gratuity.”*

7. Thus, according to above statement of the MW1, he has shown the reason for not confirming the VSS to the Workmen herein that they have not completed 10 years under the gate employment and even not completed 120 days in a year for a minimum of 10 years. But the contents of circular of VSS dated 17.9.1993 goes to reveal that only the condition of putting in 10 years of service, is necessary for opting VSS Scheme and no other condition as such is mentioned in the circular dated 17.9.1993 as the MW1 has stated in his testimony for not conferring VSS benefit to these workmen. However, subject of circular dated 17.9.1993 specifically mentioned “Introduction of Voluntary Separation Scheme (VSS) in respect of daily paid workers and persons engaged on consolidated pay. Admittedly these workmen in this matter are daily paid workers and very much covered under the VSS Scheme as per circular dated 17.9.1993. No distinction is made in the circular about the workmen of the gate employment or seasonal or daily paid workers. It seems that the Respondent tries to create new distinction in the category of workmen with the intention to deprive these workmen from the VSS scheme. However, document Ex.W1 the list of 73 workers goes to reveal that all the workmen whose names are mentioned in the list have completed more than 10 years of service and thus, they also fulfilled the eligibility criteria for claiming the VSS in the Respondent employment.

8. Moreover, Learned Counsel for Workmen has taken the plea that workman, Sri Gaddam Devdas, a daily wage worker at Warangal Branch of the same management and who joined service on 17/11/1987 was extended the benefit of VSS as per proceeding dated 22.2.2005. So this action of management in extending the benefit of workmen at Warangal who joined the service much later of 1.11.1986, the cut off date is nothing but to deprive the Workmen at Guntur from benefit of scheme and it amounts to discrimination and a hostile treatment. Learned

Counsel for Respondent contended that the benefit of VSS has been extended to those workmen who has joined prior to 1.11.1986 and the Workmen who joined after the said date has not been extended the benefit of VSS. But the Respondent has not denied the fact that one workman, Sri Gaddam Devdas, who joined the service on 17/11/1987 has been extended the benefit of VSS and Respondent failed to furnish any satisfactory explanation regarding the criteria on which Sri Devdas was extended the benefit of VSS under scheme dated 17.9.1993. The Respondent witness in his chief affidavit states that said Sri Devdas is not made as a party in the present ID and therefore no relief can be claimed at par with him. Further, even assuming but not conceding that the said Sri Devdas was given the benefit under the said scheme, but it is contrary to the VSS terms and no relief contrary to VSS can be given to the workmen. Respondent further contended that the claimant workmen cannot take plea for a non-eligible benefit, hence, the claim is untenable. Admittedly, Respondent has extended the benefit of VSS to Sri Gaddam Devdas who have joined service on 17.11.1987 much later to cut off date of 1.11.1986. The said cut off date has not been mentioned in the circular dated 17.9.1993 for opting VSS. It is clear that the Respondent has fixed cut off date of joining arbitrarily at a later stage and same was not informed to the applicants / workmen. Thus, such action of the Respondent in terms of fixing the cut off date as 1.11.1986 is quite arbitrary and discriminatory and not reasonable one.

9. However, Respondent witness MW1 was cross examined by the Learned Counsel for Workmen and in his cross examination MW1 has stated,

*"It is not true to suggest that the workmen covered by the present reference were employed by the respondent. It is true that they are extended EPF and ESI benefits. The witness adds even if a person works for one day, such benefits are to be extended. They attended to the process of purifying of the seed and packing it. The Plant incharge used to entrust and specify the work to be done by these workmen. These workmen alone used to attend the measuring and weighing of the seeds also. These are all the duties which are perennial in nature. The witness again says these are all seasonal duties. These workmen were being paid wages monthly. We have not served any appointment letter or any letter stating that these workmen were employed seasonally. Muster roll is available to show that they are seasonal employees. We have not produced muster roll before the court. We can produce it. It is true that there is no record to show that these workmen employed basing on the need only. It is not true to suggest that we did not state in our counter that since the workmen have not worked for 120 per annum only, they were not extended with the benefit of voluntary separation scheme. It is not true to suggest that these workmen worked for more than 120 days every year. It is true that there is no stipulation in Ex. M1 that for getting the benefit of VSS one has to work for 120 days per annum. It is true that there is no cut off date of joining for getting the benefit of this scheme provided in Ex. M1. The witness adds but one shall complete 10 years of service. It is not true to suggest that as per the information given by me in my affidavit itself, all these workers worked for more than 10 years by the date of introduction of VSS Scheme. It is not true to suggest that by the date of arising of the present dispute they completed more than 10 years of standing. The witness adds all these workers were discontinued by 2005. Therefore the question of their having 10 years of service does not arise. Since the ministry directed as not to engage any workers directly and only to have contract system, we disengaged these workmen. Now we are calling for tenders from the contractors. The contractor will be engaging the workers. After these workmen were terminated, the work is going on through contract labourers. It is true that we have not issued any notice to these workmen and we have not paid any notice pay or retrenchment compensation to them. The witness adds, as there is no need and we issued two months' notice by placing it on notice board. I have not filed any record to show that we issued two months' notice by affixing on notice board. It is not true to suggest that we have not displayed any such notice. I cannot give the details of the last paid wages to the workmen now. But the record is available. It is not true to suggest that there is no basis for my contention that there is no valid and proper espousal of the dispute by the Union. It is not true to suggest that there is no basis for my contention that there is no valid and proper disposal of the dispute by the Union. It is not true to suggest that the Union has passed a resolution to raise the dispute and that my contention that Union is guilty of suppression of material facts and has not come forward with clean hands are all incorrect. The witness adds, there is no union at all. We have not followed any specific procedure for engaging these workmen. They were available and we engaged them. The Workmen who were engaged prior to 1.11.1986 have been extended with VSS benefit. It is true that Ex.W3 is the proceeding issued by our Area Manager. It is true that as per Ex.W3, Devdas, who joined on 17/11/1987 has been extended the benefit of VSS. The service particulars mentioned in Ex.W1 are correct. It is true that Ex.W2 consists a bunch of ESI cards and EPF slips. It is not true to suggest that the reasons given by me in my Chief Examination affidavit for denying the VSS benefit to various workers are false. It is not true to suggest that all these workmen are entitled for VSS benefit and that I am deposing falsehood".*

Thus, MW1 has admitted in his testimony that there was no condition for opting VSS Scheme as per circular dated 17.9.1993 that to complete 120 days working days or appointment date before 1.11.1986. Thus, it is established that the Management has stipulated the said condition later on not to extend the benefit to workmen to deprive the workmen herein from the benefit of the scheme.

10. Whereas Workman Sri Gaddam Devdas who have joined on 17.11.1987 have been extended the benefit under the scheme. Thus, it reveals that the Respondent Management has made stipulation of 120 days work and

joining date before 1.11.1986 in the VSS Scheme arbitrarily and capriciously which is quite discriminatory. The contents of circular clearly manifest that VSS was made applicable to all the workmen irrespective of their joining date. The VSS scheme was made applicable universally to all the workmen and only criteria was completing 10 years of service. Therefore, all the workmen who worked in Respondent corporation are eligible to take the benefit of VSS Scheme. These workmen cannot be deprived the benefit of VSS by stipulating said unreasonable and discriminatory condition of date of joining and number of working days. Therefore, the condition imposed by the Respondent corporation for granting the benefit of VSS to its workmen by fixing cut off date i.e., 1.11.1986 the date of joining is out of syllabus of VSS circular. However, the action of Respondent extending benefit of VSS to workman Sri Gaddam Devdas who has joined the service on 17.11.1987, this is much later date of 1.11.1986 is nothing but arbitrary and discriminatory and that can not be said justified. Thus, the action of Respondent Management in not extending the benefit of VSS Scheme as per circular to the 73 workmen as mentioned in reference and in the list i.e., Ex.W1 is nothing but arbitrary and capricious act. It is settled law that like to be treated alike. Therefore, the demand of the National Seeds Workers Union for extending the benefit of VSS Scheme to Smt. A.Samrajyam and 72 other workmen as well as at par with Sri Gaddam Devdas is legal and justified.

Thus, Point No.I is answered accordingly.

**11. Point No.II:-** In view of the fore gone discussion and findings given at Point No.I, the Workmen here in whose name appear in the Ex.W1 from Sl.No.1 to 73 are entitled for claiming the benefit of VSS in view of the circular dated 17.9.1993 of the Respondent Corporation. Therefore, the petition of workmen deserves to be allowed.

Thus, Point No.II is answered accordingly.

### **AWARD**

The demand of the National Seeds Workers Union for extending the benefit of VSS Scheme to Shri A. Samrajyam & 72 other workmen, as per Annexure, at par with 15 other workers, who have received these benefits, is legal and justified. These workmen are entitled to benefits of VSS Scheme at par with 15 other workers, who have received these benefits. Reference is answered accordingly.

Award is passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant, transcribed by her and corrected by me on this the 2<sup>nd</sup> day of August, 2024.

IRFAN QAMAR, Presiding Officer

### Appendix of evidence

Witnesses examined for the

Witnesses examined for the

Petitioner

Respondent

WW1: Smt. Bondalapati Varalakshmi

MW1: Sri Radhe Shyam

### Documents marked for the Petitioner

Ex.W1: Photostat copy of list of workers containing their service particulars

Ex.W2: Photostat copy of bunch of ESI identity cards and Annual EPF statement of the workers listed in Ex.W1.

Ex.W3: Photostat copy of memorandum dt.23.6.2007 extending Voluntary Retirement benefit to worker Sri J.Nageswara Rao and others

### Documents marked for the Respondent

Ex.M1: Photostat copy of VSS Circular dt. 17.9.93

Ex.M2: Photostat copy of list of persons who have been granted VSS dt. 4.6.2007

Ex.M3: Photostat copy of service particulars of persons who have been granted VSS dt. 10.5.2007

Ex.M4: Photostat copy of service particulars of claimant workmen

नई दिल्ली, 16 अगस्त, 2024

**का.आ. 1617.—औद्योगिक** विवाद अधिनियम 1947 (1947 का 14 ) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन, संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (64/2019) प्रकाशित करती है।

[सं. एल-12011/21/2019- आई आर (बी-1)]

सलोनी, उप निदेशक

New Delhi, the 16th August, 2024

**S.O. 1617**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.64/2019) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India their workmen.

[No. L-12011/21/2019- IR(B-I)]

SALONI, Dy. Director

**ANNEXURE**

**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT  
HYDERABAD**

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 12<sup>th</sup> day of June, 2024

**INDUSTRIAL DISPUTE No. 64/2019**

Between:

The General Secretary,  
United Security Guards Union,  
D.No. 41-1/12-57,  
Nehru Nagar, Satyamgari Doddi,  
Krishnatanka,  
Vijaywada-520013.

.....Petitioner

AND

1. The Manager,  
M/s Orion Security Solutions Pvt. Ltd.  
No: 5E, Ist Floor, Jungi House,  
Street No 5, B.S.E.S. Power Station,  
Shashapur Jat, New Delhi-110049.
2. The Branch Manager,  
SBI, Kolluru (M)  
Guntur-522411.

... Respondents

Appearances:

For the Petitioner : None

For the Respondent: Shri Y Ranjeet Reddy, Advocate of R2



**A W A R D**

The Government of India, Ministry of Labour by its order No.L-12011/21/2019 (IR(B-I)) Dated 16/07/2019 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s Orion Security Solutions Pvt. Ltd. & State Bank of India and their workmen. The reference is,

**SCHEDULE**

“Whether the action of the management of M/s Orion Security Solutions Pvt. Ltd., New Delhi a contractor of State Bank of India in terminating the service of Sri K. Srinivasa Rao w.e.f. 01.12.2016 legal or not? If not, to what relief the workman is entitled to?”

The reference is numbered in this Tribunal as I.D. No. 64/2019 and notices were issued to the parties concerned.

2. Petitioner did not file any claim statement and documents despite sufficient opportunity extended to him. It seems he don't want to prosecute his case. Therefore, in absence of any claim statement a 'No-Claim' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Shri Vinay Panghal, LDC corrected by me on this the 12<sup>th</sup> day of June, 2024.

IRFAN QAMAR, Presiding Officer

**Appendix of evidence**

Witnesses examined for the

Witnesses examined for the

Petitioner

Respondent

NIL

NIL

**Documents marked for the Petitioner**

NIL

**Documents marked for the Respondent**

NIL

नई दिल्ली, 16 अगस्त, 2024

**का.आ. 1618.—**औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (66/2019) प्रकाशित करती है।

[सं. एल-12011/18/2019-आई आर (बी-1)]

सलोनी, उप निदेशक

New Delhi, the 16th August, 2024

**S.O. 1618—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.61/2019) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India their workmen.

[No. L-12011/18/2019- IR(B-I)]

SALONI, Dy. Director

**ANNEXURE****IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD**

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 12<sup>th</sup> day of June, 2024



**INDUSTRIAL DISPUTE No. 61/2019**

Between:

The General Secretary,  
United Security Guards Union,  
D.No. 41-1/12-57,  
Nehru Nagar, Satyamgari Doddi,  
Krishnatanka,  
Vijaywada-520013.

.....Petitioner

AND

1. The Manager, M/s Orion Security Solutions Pvt. Ltd.  
No: 5E, Ist Floor, Jungi House, Street No 5,  
B.S.E.S. Power Station, Shashapur Jat,\  
New Delhi-110049.
2. The Branch Manager,  
SBI, Kolluru (M)  
Guntur-522411.

... Respondents

Appearances:

For the Petitioner : None

For the Respondent: Shri Y Ranjeet Reddy, Advocate of R2

**A W A R D**

The Government of India, Ministry of Labour by its order No.L-12011/18/2019 (IR(B-I)) Dated 11/07/2019 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s Orion Security Solutions Pvt. Ltd. & State Bank of India and their workmen. The reference is,

**SCHEDULE**

“Whether the action of the management of M/s Orion Security Solutions Pvt. Ltd., New Delhi a contractor of State Bank of India in terminating the service of Sri D. Ramesh w.e.f. 01.06.2017 legal or not? If not, to what relief the workman is entitled to?”

The reference is numbered in this Tribunal as I.D. No. 61/2019 and notices were issued to the parties concerned.

2. Petitioner did not file any claim statement and documents despite sufficient opportunity extended to him. It seems he don't want to prosecute his case. Therefore, in absence of any claim statement a 'No-Claim' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Shri Vinay Panghal, LDC corrected by me on this the 12<sup>th</sup> day of June, 2024.

IRFAN QAMAR, Presiding Officer

**Appendix of evidence**

Witnesses examined for the  
Petitioner  
NIL

Witnesses examined for the  
Respondent  
NIL

**Documents marked for the Petitioner**

NIL

**Documents marked for the Respondent**

NIL

नई दिल्ली, 16 अगस्त, 2024

**का.आ. 1619.**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14 ) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (62/2019) प्रकाशित करती है।

[सं. एल-12011/19/2019-आई आर (बी-1)]

सलोनी, उप निदेशक

New Delhi, the 16th August, 2024

**S.O. 1619**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 62/2019) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India their workmen.

[No. L-12011/19/2019– IR(B-I)]

SALONI, Dy. Director

**ANNEXURE****IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT  
HYDERABAD**Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 12<sup>th</sup> day of June, 2024**INDUSTRIAL DISPUTE No. 62/2019**

Between:

The General Secretary,

United Security Guards Union,

D.No. 41-1/12-57,

Nehru Nagar, Satyamgari Doddi,

Krishnatanka,

Vijaywada-520013.

.....Petitioner

AND

1. The Manager, M/s Orion Security Solutions Pvt. Ltd.

No: 5E, Ist Floor, Jungi House, Street No 5,

B.S.E.S. Power Station, Shashapur Jat,\

New Delhi-110049.

2. The Branch Manager,

SBI, Kolluru (M)

Guntur-522411.

... Respondents

Appearances:

For the Petitioner : None

For the Respondent: Shri Y Ranjeet Reddy, Advocate of R2

### A W A R D

The Government of India, Ministry of Labour by its order No.L-12011/19/2019 (IR(B-I)) Dated 11/07/2019 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s Orion Security Solutions Pvt. Ltd. & State Bank of India and their workmen. The reference is,

### SCHEDULE

“Whether the action of the management of M/s Orion Security Solutions Pvt. Ltd., New Delhi a contractor of State Bank of India in terminating the service of Sri V.Narasimha Rao w.e.f. 13.01.2017 legal or not? If not, to what relief the workman is entitled to?”

The reference is numbered in this Tribunal as I.D. No. 62/2019 and notices were issued to the parties concerned.

2. Petitioner did not file any claim statement and documents despite sufficient opportunity extended to him. It seems he don't want to prosecute his case. Therefore, in absence of any claim statement a 'No-Claim' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Shri Vinay Panghal, LDC corrected by me on this the 12<sup>th</sup> day of June, 2024.

IRFAN QAMAR, Presiding Officer

### Appendix of evidence

Witnesses examined for the

Petitioner

NIL

Witnesses examined for the

Respondent

NIL

**Documents marked for the Petitioner**

NIL

**Documents marked for the Respondent**

NIL

नई दिल्ली, 16 अगस्त, 2024

**का.आ. 1620.**—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार महाप्रबंधक, भारत संचार निगम लिमिटेड, रोहतक, के प्रबंधन के संबद्ध नियोजकों और श्री शिव कुमार, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय-2, चंडीगढ़, पंचाट(संदर्भ संख्या 04/2015) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.08.2024 को प्राप्त हुआ था।

[सं. एल-40012/10/2015-आई आर (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 16th August, 2024

**S.O. 1620**—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 04/2015) of the **Central Government Industrial Tribunal cum Labour Court -2, Chandigarh**, as shown in the Annexure, in the Industrial dispute between the employers in relation to **The General Manager, Bharat Sanchar Nigam Limited, Rohtak, and Shri Shiv Kumar, Worker**, which was received along with soft copy of the award by the Central Government on 16.08.2024.

[No. L-40012/10/2015– IR(DU)]

DILIP KUMAR, Under Secy.

**ANNEXURE****In the Central Government Industrial Tribunal-cum-Labour Court-II, Chandigarh.****Present: Mr. Kamal Kant, Presiding Officer.**

ID No.4/2015

Registered on:-06.05.2015

Sh. Shiv Kumar S/o Sh. Ram Karan, R/o VPO Bhalaut, Rohtak-124001.

.....Workman

**Versus**

The General Manager, Bharat Sanchar Nigam Limited, Deptt. of Telecom, HUDA Complex, Rohtak-124001.

.....Management

**AWARD****Passed On:-09.07.2024**

Central Government vide Notification No.L-40012/10/2015-IR(DU), Dated 20.04.2015, under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947(hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

**“Whether the action of the management of BSNL, Rohtak in terminating the services of the workman Sh. Shiv Kumar S/o Sh. Ram Karan w.e.f. 21.01.2014 is justified? If not, what relief the workman is entitled to and from which date?**

1. Both the parties were put to notice and workman Shiv Kumar filed statement of claim, with the averment, that he was appointed as Driver on daily wages basis by the management in the office of Telecommunication Deptt./BSNL Rohtak in the month of February, 1990. His work and conduct was good to the satisfaction of his superiors. He was allowed to work continuously upto 21.01.2014 with intentional notional breaks in his service. The requirement of Driver in the office of management is still in existence. On 21.01.2014 the workman was not permitted to enter in the premises of management and official asked the workman that his services have been dispensed with by the verbal order of management. The workman has completed 24 years continuous service as Driver from February, 1990 to 21.01.2014 and has completed 240 days continuous service in 12 calendar months preceding the date of his verbal termination on 21.01.2014. No retrenchment compensation in lieu of notice was paid to the workman which is mandatory as per the ID Act. The management has violated the provisions of Section 25-F and 25-G of the Act. The management has retained the juniors to the workman and even new person has been appointed in place of workman. One Bijender son of Hawa Singh was appointed as Driver in the year 2012 and the management has not followed the principal of "last come first go". The workman was performing the same duties with same hours which was being performed by regular employees of his category. The workman is entitled for regularization of his service and all other benefits attached to the post along with arrears of salary. It is therefore, prayed that the workman may kindly be reinstated in service with continuity and full back wages along with all consequential benefits with enhanced rate from time to time along with interest @18% per annum.

2. The management filed written statement, refuting that he was appointed as Driver on daily wage basis and joined the services 1990. It is denied that workman was driving any Govt. vehicle for doing his duties and he has worked continuously upto 21.01.2014 with notional breaks and his work and conduct was good to the satisfaction of the superiors. As per the recruitment rules the drivers are recruited on regular basis through the process of recruitment and against the sanctioned post. Since the workman was not employed on the post of Driver the question of not permitting him to enter the premises on 21.01.2014 does not arise and nor the question of his termination arises as alleged. It is denied that the workman has completed 24 years of continuous service as Driver from February, 1990 to 21.01.2014. The workman may be put to a strict proof of his continuity of service along with the authenticated documents showing number of days he worked in the particular month and year and the wages, if any, paid by the management. It is further denied that the workman has completed 240 days continuous service in 12 calendar months preceding the date of his alleged termination on 21.01.2014. The management has not violated the provisions of Section 25-F and 25-G of the Act. The workman himself has admitted that he was appointed as Driver on daily wage basis and on the other hand he is claiming the regular pay scale of the post. The workman is not entitled for regularization of his services along with any other benefits attached to the said post as he was not engaged as Driver in the management. It is denied that the workman is not gainfully employed during the alleged period from the alleged date of termination. It is therefore, prayed that the claim of the workman may be dismissed.

3. In support of his case, the workman Shiv Kumar has filed its affidavit in evidence along with documents Ex.W1 and Ex.W2 and has been cross-examined by the learned counsel of management.

4. The management-BSNL has examined two witnesses MW1 Sh. Dharam Pal Sharma, retired Accounts Officer, O/o GMTD, BSNL, Rohtak, who filed his affidavit in evidence as Ex.MW1/A and MW2 Sh. Parkash Vir, Accounts Officer, O/o GMTD, BSNL, Rohtak, who has filed his affidavit in evidence as Ex.MW2/A and have been cross-examined by the learned AR of workman.

5. I have heard the learned counsel for the management and have also gone through the evidence given by the workman as well as evidence adduced by the management.

6. The burden of proof was on the workman that he was employed as Driver on daily wages and remained as such from February 1990 to 21.01.2014 for about 24 years. In this regard, the workman has stated that since February 1990 he remained as Driver with different officers whose names have been mentioned in Para 2 of the affidavit till his retrenchment on 21.01.2014.

7. On the other hand, it is the case of the management that the workman was never appointed as Driver on daily wage basis. It was incumbent upon the workman to examine any of the officer with whom he had worked on daily wages but he has not examined any officer as mentioned in para 2 of the affidavit filed by him and thus he is unable to prove his claim. Not only this, the workman has proved on record Ex.W2 certificate of employment issued by one D.P. Sharma, Accountant. As per the said document Ex.W2 certificate, the workman was working as Driver w.e.f. 27.03.2004 on daily wage basis. The said certificate was issued by one D.P. Sharma, A.O.(TR) BSNL, O/o GMTD, Rohtak. The said D.P. Sharma has been examined by the management as MW2 who in his affidavit has categorically stated that he had seen the experience certificate Ex.W2 and he never issued this certificate to the workman. The said certificate does not bear his signature. The said certificate does not have any date or number on it. This witness even in his cross-examination has stated that even he did not know whether there exists any other D.P. Sharma who was accountant. In this way, the certificate produced by the workman has remained unproved as he should have called the account officer namely D.P. Sharma who has allegedly issued the certificate. It seems to be a fake certificate. Not only this, workman has stated that he has signed the logbook but he has not placed on record copy of log book by calling concerned-witness from the department. He even has not placed on record any document showing that he

received any salary from the management. He further stated that he receives the salary in cash which seems to be a concocted story as nowadays the salary is credited in the bank-account and he has not placed on record any copy of bank-record which also belies his version that he was appointed as Driver on daily wages basis with management. The workman has also placed on record Ex.W1 Identity Card which is not proved by him by calling the concerned-person from the management. The said Identity Card does not bear any number which also seems to be a fake document.

8. Not only this, another witness examined by the management namely Parkash Vir, Accounts Officer, in his affidavit has stated that workman was never appointed against any post in the BSNL. Neither any wages have been paid to him nor his attendance was marked. He was never employed as casual labour nor on scroll nor he was recruited according to recruitment rules. As the management is a public undertaking and appointments are made according to the set procedure of selection. He has refuted the claim of the workman that the workman has remained as Driver on daily wages basis with the management. This witness has specifically stated in his cross-examination that log book register is not signed by the Drivers as there is no column for signatures of the drivers. This witness had brought the attendance register from 1999 to 2014. In attendance register even there is no marking of presence of workman. This witness has further stated that there were two regular drivers namely Randir Singh and Krishan Dutt. There is nothing in the cross-examination of this witness from which it can be gathered that workman had worked with the management during the alleged period which workman has claimed to have worked with the management. In this way no case for workman is made out that he had worked with the management from February 1990 to 21.01.2014.

9. In view of the above discussion, this Tribunal is of the firm view that there is no merit in the claim and reference is answered against the workman.

10. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

Date : 9/7/2024

KAMAL KANT, Presiding Officer

नई दिल्ली, 16 अगस्त, 2024

**का.आ. 1621.—औद्योगिक** विवाद अधिनियम 1947 (1947 का 14 ) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधन, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **हैदराबाद** के पंचाट (65/2019) प्रकाशित करती है।

[सं. एल-22011/22/2019-आई आर (बी-1)]

सलोनी, उप निदेशक

New Delhi, the 16th August, 2024

**S.O. 1621—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.65/2019) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India their workmen.

[No. L-22011/22/2019– IR(B-I)]

SALONI, Dy. Director

#### ANNEXURE

#### IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 12<sup>th</sup> day of June, 2024

**INDUSTRIAL DISPUTE No. 65/2019**

Between:

The General Secretary,  
United Security Guards Union,  
D.No. 41-1/12-57, Nehru Nagar,  
Satyamgari Doddi, Krishnatanka,  
Vijaywada-520013.

.....Petitioner

AND

1. The Manager,  
M/s Orion Security Solutions Pvt. Ltd.  
No: 5E, Ist Floor, Jungi House,  
Street No 5, B.S.E.S. Power Station,  
Shashapur Jat, New Delhi-110049.
2. The Branch Manager,  
SBI, Kolluru (M)  
Guntur-522411.

... Respondents

Appearances:

For the Petitioner : None

For the Respondent: Shri Y Ranjeet Reddy, Advocate of R2

**A W A R D**

The Government of India, Ministry of Labour by its order No.L-22011/22/2019 (IR(B-I)) dated 16/07/2019 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s Orion Security Solutions Pvt. Ltd. & State Bank of India and their workmen. The reference is,

**SCHEDULE**

“Whether the action of the management of M/s Orion Security Solutions Pvt. Ltd., New Delhi a contractor of State Bank of India in terminating the service of Sri P. Nancharaiah w.e.f. 01.04.2018 legal or not? If not, to what relief the workman is entitled to?”

The reference is numbered in this Tribunal as I.D. No. 65/2019 and notices were issued to the parties concerned.

2. Petitioner did not file any claim statement and documents despite sufficient opportunity extended to him. It seems he don't want to prosecute his case. Therefore, in absence of any claim statement a 'No-Claim' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Shri Vinay Panghal, LDC corrected by me on this the 12<sup>th</sup> day of June, 2024.

IRFAN QAMAR, Presiding Officer

**Appendix of evidence**

Witnesses examined for the  
Petitioner  
NIL

Witnesses examined for the  
Respondent  
NIL

**Documents marked for the Petitioner**

NIL

**Documents marked for the Respondent**

NIL

नई दिल्ली, 16 अगस्त, 2024

**का.आ. 1622.**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14 ) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (66/2019) प्रकाशित करती है।

[सं. एल-22012/23/2019- आई आर (बी-1)]

सलोनी, उप निदेशक

New Delhi, the 16th August, 2024

**S.O. 1622.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.66/2019) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India their workmen.

[No. L-22012/23/2019– IR(B-I)]

SALONI, Dy. Director

**ANNEXURE**

**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT  
HYDERABAD**

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 12<sup>th</sup> day of June, 2024

**INDUSTRIAL DISPUTE No. 66/2019**

Between:

The General Secretary,  
United Security Guards Union,  
D.No. 41-1/12-57, Nehru Nagar,  
Satyamgari Doddi, Krishnatanka,  
Vijaywada-520013.

.....Petitioner

AND

1. The Manager,  
M/s Orion Security Solutions Pvt. Ltd.  
No: 5E, Ist Floor, Jungi House,  
Street No 5, B.S.E.S. Power Station,  
Shashapur Jat, New Delhi-110049.
2. The Branch Manager,  
SBI, Kolluru (M)  
Guntur-522411.

... Respondents

Appearances:

For the Petitioner : None



For the Respondent: Shri Y Ranjeet Reddy, Advocate of R2

### A W A R D

The Government of India, Ministry of Labour by its order No.L-22012/23/2019 (IR(B-I)) Dated 11/07/2019 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s Orion Security Solutions Pvt. Ltd. & State Bank of India and their workmen. The reference is,

### SCHEDULE

“Whether the action of the management of M/s Orion Security Solutions Pvt. Ltd., New Delhi a contractor of State Bank of India in terminating the service of Sri P. Sudheer Babu w.e.f. 30.06.2018 legal or not? If not, to what relief the workman is entitled to?”

The reference is numbered in this Tribunal as I.D. No. 66/2019 and notices were issued to the parties concerned.

2. Petitioner did not file any claim statement and documents despite sufficient opportunity extended to him. It seems he don't want to prosecute his case. Therefore, in absence of any claim statement a 'No-Claim' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Shri Vinay Panghal, LDC corrected by me on this the 12<sup>th</sup> day of June, 2024.

IRFAN QAMAR, Presiding Officer

### Appendix of evidence

Witnesses examined for the  
Petitioner  
NIL

Witnesses examined for the  
Respondent  
NIL

### Documents marked for the Petitioner

NIL

### Documents marked for the Respondent

NIL

नई दिल्ली, 16 अगस्त, 2024

**का.आ. 1623.**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14 ) की धारा 17 के अनुसरण में केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधन, संबंधित नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (7/2016) प्रकाशित करती है।

[सं. एल-39025/01/2024- आई आर (बी-II)-34]

सलोनी, उप निदेशक

New Delhi, the 16th August, 2024

**S.O. 1623.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 7/2016) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of Syndicate Bank their workmen.

[No. L-39025/01/2024— IR(B-II)-34]

SALONI, Dy. Director

### ANNEXURE

### IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri Irfan Qamar**  
Presiding Officer

Dated the 29<sup>th</sup> day of July, 2024

**INDUSTRIAL DISPUTE L.C.No. 7/2016**

Between:

Sri P. Narsimhulu,

S/o P. Papaiah,

R/o, C/o 2-4-761, Plot No.150,

Road No.3, New Nagole Colony,

Hyderabad – 500 102.

.. ....Petitioner

AND

The Deputy General Manager,

Disciplinary Authority,

Syndicate Bank,

Regional Office (Rural),

D.No.60-2-915,

West Block, 2<sup>nd</sup> floor,

HMWS &amp; SB,

Khairatabad, Hyderabad – 500 004.

....Respondent

**Appearances:**

For the Petitioner : Sri Y. Ranjeeth Reddy, Advocate

For the Respondent: Sri Alluri Krishnam Raju, Advocate

**AWARD**

Sri P. Narsimhulu who worked as Clerk(who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents Syndicate Bank seeking for declaring the proceeding dated 27.2.2015 issued by Respondent as illegal, arbitrary and to set aside the same consequently directing the Respondents to reinstate the Petitioner into service duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deems fit.

**2. The averments made in the petition in brief are as follows:**

It is submitted that the petitioner was appointed as an attendar on 2<sup>nd</sup> July, 1982 in the respondent bank and due to hard work petitioner was promoted as Clerk in the year 1990. It is submitted that the petitioner worked continuously up to 31<sup>st</sup> January, 1998 without any break to the entire satisfaction of the superior officers. There were no complaints against the petitioner in his entire service. It is submitted that the petitioner was issued with a charge sheet dated 1<sup>st</sup> August 1996 alleging that while the petitioner was working as a clerk at Kamareddy branch. He accepted an amount of Rs.25,000/- from Smt. Lakshmi holding account No.13292 and asked Mr. Jamaluddin, a clerk, to make entry in her passbook and that the petitioner failed to account for the said amount and also the petitioner accepted an amount of Rs.30,000/- as a clerk from the same customer and did not accounted for the said amount though entered the same passbook etc.. It is submitted that the Petitioner submitted an explanation denying the charges and explaining the facts in details and asked the Respondent to complain to the CBI. An enquiry was conducted in a mechanical manner wherein petitioner was not given any reasonable opportunity to defend. The findings of the inquiry officer are perverse and are not based on the record. However, based on such perverse findings, the petitioner was dismissed from service by office order dated 8<sup>th</sup> June 1998 questioning which the petitioner raised an industrial dispute and the same was registered as ID No. 113/2002 and after enquiry, the Hon'ble Tribunal passed the award dated 29.4.2005 dismissing the ID without appreciating the matter in its proper perspective. Then the petitioner filed Writ Petition No.9 of 2006 before the Hon'ble High Court of Andhra Pradesh. After hearing both sides, Hon'ble High Court passed the following order on 6.7.2010:-

*“In the result, the writ petition is allowed and accordingly, the dismissal order passed by the Disciplinary Authority and the award dated 29.4.2015 passed by the Labour Court are set aside. The matter is remanded to the Disciplinary Authority for imposing any other lesser punishment after taking into the past service of the petitioner into consideration. There shall be no order as to costs.”*

It is further submitted that aggrieved by the WP orders, both the respondent and petitioner filed appeals vide writ appeals No. 562 of 2010 and 613 of 2010 respectively. The Hon'ble Bench of High Court passed order on 17.9.2013 dismissing both the appeals, confirming the WP No.9 of 2006, order dated 6.7.2010. It is submitted that aggrieved by the order on writ appeal, respondent filed SLP(C) No. 3339 of 2014 before the Hon'ble Supreme Court of India and after hearing the counsel for respondent. Hon'ble Supreme Court of India passed order on 8.10.2014 by dismissing the SLP. Thus, the order dated 6.7. 2010 of Single Judge in WP No.9 of 2006 became final. Further, it is submitted that the respondent without complying the order dated 6.7.2010 in WP No. 9 of 2006 passed by the Hon'ble High Court for lesser punishment, passed order on 27.2.2015 confirming the earlier dismissal order, which amounts to violation of principles of natural justice and equity. It is submitted that the petitioner did not receive any amount of Rs.25,000/- on 24/12/1991 though the petitioner was performing cashier duties on that date and with regard to the second charge the entry of Rs.30,000/-, on 10<sup>th</sup> October, 1992 the petitioner did not receive any amount from Smt. B Lakshmi and the petitioner made the entries in the passbook as per counter foil produced by the Customer. It is submitted that petitioner was working at SB section, hence question of receiving any amount from the customer does not arise. The 3<sup>rd</sup> charge was dropped. It is submitted that petitioner was dismissed from service for no fault of him and he was made escape boat for the mistakes of others. The other Persons who are present in the cash cabin on that day were not issued with any notices and during cross examination in enquiry customer Smt. Lakshmi stated that she has deposited cash in cash cabin. It is clearly established that Petitioner did not receive any amount from the customer. It is submitted that petitioner was the only bread earner in the family and all the family members are dependents on the income of the petitioner. Petitioner could not secure any other employment inspite of his best efforts. Further, it is submitted that respondent without complying the order of the Hon'ble High Court passed the order on 27.2.2015, confirming that dismissal order dated 31.1.1998. It is submitted that during his entire service period from 1982 to 1995, petitioner was awarded with only one minor punishment of stoppage of next one increment for a period of 3 months vide proceedings dated 20<sup>th</sup> January 1995 by Disciplinary Authority for unauthorised absence of 153 days. Hence, prayed to pass an award by setting aside the order dated 27.2.2015 and direct the respondent to reinstate the petitioner into service with all other attendant benefits.

**3. The Respondents filed counter denying the averments made in the petition, with the averments in brief which runs as follows:**

It is submitted that Petitioner has earlier raised ID No.113/ 2002 questioning the validity of order dated 8.6.1998 by the Disciplinary Authority in regard to the misconduct detailed in the charge sheet dated 1<sup>st</sup> August, 1996 wherein this Tribunal had upheld the validity of the departmental enquiry conducted by the respondent and passed an award dated 29<sup>th</sup> April, 2005 on merits upholding the punishment imposed by the Disciplinary Authority to the Petitioner. Thereafter, petitioner filed Writ petition No.9 of 2006 before the Hon'ble High Court of AP questioning the award. The Learned Single Judge vide order dated 6<sup>th</sup> July 2010 set aside the order passed by the Disciplinary Authority and the award passed by the Hon'ble Tribunal on the ground that the Disciplinary Authority did not consider the past record of the Petitioner while deciding the quantum of punishment and however, did not interfere with the findings of the Enquiry Officer basing on the Departmental enquiry conducted which were accepted by the Disciplinary Authority and also by this Tribunal that the petitioner committed the major misconduct and it was duly proved during the departmental enquiry on the basis of oral and documentary evidence produced. The Learned Single Judge remanded the matter to the Disciplinary Authority for imposing any other lesser punishment after taking into the past service of the Petitioner into consideration. That order of the Learned Single Judge was questioned by the petitioner vide Writ Appeal No. 613 of 2010 and responded Bank also preferred an appeal vide WA No.562 of 2010 the Division Bench of the Hon'ble High Court of AP vide Common Order dated 17.9. 2013 dismissed the writ appeal filed by the petitioner and disposed the writ appeal preferred by the bank modifying to the extent that the direction of the Learned Single judge restricting the punishment to be imposed is erroneous and held it is appropriate for the Disciplinary Authority to take into account the past service of the Workman while imposing punishment afresh. It is pertinent to submit that the respondent preferred SLP(C) No. 3339/2014 before the Hon'ble Supreme Court of India and it was dismissed. In compliance of the orders passed by the Hon'ble High Court the Disciplinary Authority considered the past record of the petitioner and passed an order dated 27<sup>th</sup> February, 2015 imposing the punishment of dismissal. It is submitted that the petitioner cannot re- agitate and request the Tribunal to adjudicate about validity of the departmental enquiry or to record any oral and documentary evidence, so far as the charges levelled against him as doctrine of resjudicata is applicable as in the earlier round of litigation and therefore the Tribunal cannot reopen or adjudicate afresh those issues which are attained finality. The scope of the enquiry in the present ID is confined only about the proportionality of the punishment imposed by the disciplinary authority. It is submitted that so far as proportionality of the punishment is concerned, the petitioner committed a breach of trust and the amounts received from the customers who are mis-utilization and misappropriated and resultantly the management of the respondent which is a commercial bank lost the confidence on the honesty and integrity of the petitioner and therefore the punishment imposed to the petitioner is not disproportionate. It is established during the enquiry that charges levelled against him established and they are in the nature of breach of trust on the part of the petitioner as the mis-utilization of the amounts received from the customer meant to deposit into the customer's account. Hence, there are

no grounds to interfere with the punishment imposed by the Disciplinary Authority. Hence, prayed to reject the relief sought by the petitioner.

**4. On the basis of rival pleadings of both the parties, following points emerge for determination in the case:-**

- I. Whether the imposition of the punishment of dismissal on petitioner vide order dated 27.2.2015 passed by respondent is proportionate and commensurate to the gravity of the charge levelled against him?
- II. To what relief the petitioner is entitled for?

**Findings:-**

5. Before delving into the question of proportionality of the imposition of the punishment of dismissal upon the petitioner, it would be apposite to have a glance into the background of the case causing controversy in the present matter. Earlier, a departmental enquiry was conducted against the petitioner by respondent management wherein he was found guilty and inflicted the punishment of dismissal vide order dated 8.6.1998 by the Disciplinary Authority and against that order of Disciplinary Authority petitioner filed ID case No.113 of 2002 in this Industrial Tribunal. In that ID No.113 of 2002, the Tribunal passed the award confirming the order of dismissal dated 8.6.1998 passed by respondent management against the petitioner. That award was challenged by the petitioner in the Writ Petition No.9 of 2006, Sri P. Narasimhulu Vs. CGIT, Hyderabad and others and in that Writ Petition Hon'ble High Court of AP at Hyderabad vide judgement dated 6<sup>th</sup> July 2010 was pleased to observe that,

*"Admittedly, this is a case where the petitioner is involved in making the customers to believe that he has been receiving money and depositing the same into bank. Petitioner appears to have swindled the money and of course has made good the same to the customers and even according to the bank, petitioner has not caused any loss to the bank activities purported to have been committed by him. However, it cannot be said that such acts of the petitioner can be approved under the rules. The only question that remains to be examined is whether the Disciplinary Authority while imposing punishment of dismissal, had looked into the past conduct of the petitioner or not. Admittedly, in this case, the past conduct of the petitioner was not taken into consideration as required under Shastri Award."*

Therefore, in the result, the Writ Petition of the petitioner was allowed and accordingly, the dismissal order passed by the Disciplinary Authority against the Petitioner and award dated 29<sup>th</sup> April 2005 passed by the Labour Court was set aside. The Hon'ble High Court remanded the matter back to the Disciplinary Authority for imposing any other lesser punishment after taking into the past service of the petitioner into consideration. The said order of the Hon'ble High Court was challenged by both the parties in the Writ Appeal Numbers 562 of 2010 and 613 of 2010, but both the appeals came to be dismissed and Hon'ble Division Bench also held that it would be appropriate to remand back the matter for imposing the appropriate punishment against the order dated 17.9.2013 in the Writ appeal. The respondent Management preferred Special Leave Petition which was dismissed by Hon'ble Supreme Court of India vide order dated 8.10.2014. Thus, the judgement dated 6.7.2010 of the Hon'ble High Court of AP in Writ Petition No.9/2006 has been upheld and the finding of the Disciplinary Authority as well as Tribunal regarding imposition of punishment dismissal of Petitioner from service has been set aside and matter has been remanded back for hearing on question of punishment. Now the question was to be answered in this matter that whether order dated 27.2.2015 passed by Disciplinary Authority regarding imposition of the punishment of dismissal upon the petitioner is justified or not. The direction given by the Hon'ble High Court in the Writ Petition No.9/2006 vide order dated 6.7.2010, is extracted below:-

*"In all the above cases, the Supreme Court held that the cases have to be dealt with iron hand. But the case on hand is altogether different inspite of there being a provision in the standing order of the bank that Disciplinary Authority did not exercise the same by taking into consideration of past record of the petitioner for deciding the quantum of punishment. The Shastri Award is applicable to the present case. In the two judgements of this Court, as noticed above, it was made clear that if any extenuating circumstances exist, the misconduct may be condoned and in case such misconduct is of 'gross' type, he may be merely discharged. But the Disciplinary Authority cannot ignore the Standing orders totally. Following such a procedure as contemplated in the standing order cannot be, either said to be useless or unwanted formality. In this case, admittedly, though there is a provision in the standing order (Shastri Award), the respondents have not followed the same. Therefore, on this ground alone, the dismissal order passed by the disciplinary authority, as confirmed by the Labour Court is liable to be set aside."*

*In the result, The writ petition is allowed and accordingly, the dismissal order passed by the Disciplinary Authority and the award dated 29.4.2005 passed by the Labour Court are set aside. The matter is remanded to the Disciplinary Authority for imposing any other lesser punishment after taking into the past service of the petitioner into consideration. There shall be no order as to costs."*

In compliance of the direction of the Hon'ble High Court as extracted above, the Disciplinary Authority has passed the order dated 27.2.2015 of imposition of punishment upon Petitioner and same is extracted below:-

*"As per records cited above, it cannot be said that Sri Narasimhulu had a clean past record. Even in the absence of referring to the past records, I am of the view that the misconduct committed by Sri P. Narasimhulu and*

*proved during the enquiry justifies the punishment of dismissal awarded by the erstwhile Disciplinary Authority and I reaffirm the same."*

The order of Disciplinary Authority reveals that it has mentioned in its order dated 27.2.2015, two instances of past conduct of the petitioner. One instance of past conduct contains that, on earlier occasion explanation was called from Sri P. Narasimhulu, vide letter dated 14.3.1993 for having issued fake cheques without maintaining sufficient balance. But it is not clear from the order that after issuing the explanation letter dated 14.3.1993, if whether any disciplinary action was taken against the petitioner or he was found guilty of committing any misconduct. In the absence of any evidence of disciplinary action taken by Disciplinary Authority against Petitioner, such instance can not be treated to be past record. Secondly, the Disciplinary Authority has mentioned the instance of past record that the petitioner was also awarded with the punishment of stoppage of next one increment for a period of 3 months vide proceeding dated 20.1.95 for unauthorised absence of 153 days. But, the said instance of past record of the petitioner reveals that Petitioner was awarded only minor nature of punishment of and it can not be termed as a grave misconduct on the part of the petitioner. Apart from these two instances, no other instance of past record of the Petitioner has been mentioned in the impugned order by the Disciplinary Authority. In the facts and circumstances of the case, it manifests that apart from two said instances of minor nature, no other blot has been indicated as misconduct during long carrier of the service of the petitioner. Therefore, I am constrained not to consider aforesaid two instances as a past record of the Petitioner so as to consider the imposition of major penalty of dismissal of Petitioner from service for his proved misconduct coupled with said past record. Meaning thereby I am constrained to hold that there is no serious past record of the Petitioner in his long career of service so as to consider by Disciplinary Authority for imposition of punishment of his dismissal from service.

6. However, it is noticeable here that Disciplinary Authority in his impugned order dated 27.2.2015 has mentioned that, "As per record cited above, it cannot be said that Sri P. Narasimhulu had a clean past record". But before taking into account the past record as basis for inflicting the punishment of dismissal to the petitioner, the Disciplinary Authority must have issued him notice so as to provide him opportunity to explain about his said past record. But astonishingly it is not mentioned in the impugned order of the Disciplinary Authority that before taking past record of Petitioner in consideration that a notice was issued to him. However, no copy of such notice has been filed by the respondent, in evidence. Thus, order of Disciplinary Authority would reveal that before passing the order of dismissal of the petitioner, it has not issued any notice about his past record and on this ground the impugned order of punishment dated 27.2.2015 passed by Disciplinary Authority suffers from illegality and infirmity.

**In this context, the decision of Constitutional Bench of Hon'ble Supreme Court of India in the case of State of Mysore Vs. K. Manche Goud dated 22.8.1963** is relevant wherein Hon'ble Supreme Court of India have held.

*"If the grounds are not given in the notice, it would be well nigh impossible for him to predicate what is operating on the mind of the authority concerned in proposing a particular punishment: he would not be in a position to explain why he does not deserve any punishment at all or that the punishment proposed is excessive. If the proposed punishment was mainly based upon the previous record of a Government servant and that was not disclosed in the notice, it would mean that the main reason for the proposed punishment was withheld from the knowledge of the Government servant. It would be no answer to suggest that every Government servant must have had knowledge of the fact that his past record would necessarily be taken into consideration by the Government in inflicting punishment on him, nor it would be an adequate answer. To say that he knew, as a matter of fact that the earlier punishments were imposed on him are that he knew of his past record. This contention misses the real point, namely that what the government servant is entitled to is not the knowledge of certain facts, but the fact that those facts will be taken into consideration by the government in inflicting punishment on him. It is not possible for him to know what period of his past record or what acts or omissions of his in a particular period would be considered. If that fact was brought to his notice, he might explain that he had no knowledge of the remarks of his superior officers, that he had adequate explanation to offer for the alleged remarks or that his conduct subsequent to the remarks had been exemplary or at any rate approved by the superior officers. Even if the authority concerned took into consideration only the facts for which he was punished, it would be open to him to put forward before the said authority many mitigating circumstances are some other explanation why those punishments were given to him, or that subsequent to the punishments he had served to the satisfaction of the authorities concerned till the time of the present enquiry. He may have many other explanations.*

*We, therefore hold that it is incumbent upon the authority to give the government servant at the second stage reasonable opportunity to show cause against the proposed punishment and if the proposed punishment is also based on his previous punishments or his previous bad record, this should be included in the second notice so that he may be able to give an explanation. Before we close, it would be necessary to make one point clear. It is suggested that the past record of the Government servant, if it is intended to be relied upon for imposing a punishment, should be made a specific charge in the first stage of the enquiry itself and if it is not so done, it cannot be relied upon after the enquiry is closed and the report is submitted to the authority entitled to impose the punishment."*

Therefore, in view of the law laid down by the Hon'ble Supreme Court of India, in the present matter also as no notice was issued by the Disciplinary Authority to the petitioner while passing the impugned order of dismissal of Petitioner from service on the basis of his past record and in the absence of such mandatory notice impugned order dated 27.2.2015 passed by Respondent dismissing the Petitioner is not sustainable in the eye of law.

On the other hand, in support of his contention, Respondent has relied upon the decision of Hon'ble Supreme Court of India which are detailed as under:-

a) **Divisional Controller, Karnataka State Road Transport Corporation vs. M.G. Vittal, 2012(1) SCC 442, in this case, Hon'ble Supreme Court of India have held that,**

*“Once the employer has lost the confidence in the employee and the bonafide laws of confidence is affirmed, the order of punishment must be considered to be immune from challenge for the reason that discharging the office of trust and confidence requires absolute integrity and in a case of loss of confidence, reinstatement cannot be directed.”*

b) **In the case of State Bank of Bikaner and Jaipur vs Nemichand Nalwaya, Hon'ble Supreme Court of India have held:-**

*“When a Court is considering whether the punishment of termination from service imposed upon a bank employee is shockingly excessive or disproportionate to the gravity of the proved misconduct, the loss of confidence in the employee will be an important and relevant factor.”*

c) **Further, in the case of Divisional Controller, KSRTC (NWKRTC) vs. A.T. Mane, Hon'ble Supreme Court of India have held:-**

*“Once a domestic tribunal based on evidence comes to a particular conclusion, normally, it is not open to the appellate tribunal and court to substitute, through subjective opinion in place of one arrived at by domestic tribunal.”*

d) **Further, in APSRTC vs. Raghudas Siva Sankar Prasad, wherein Hon'ble Supreme Court of India have held,**

*“It is also not open to the tribunal and court to substitute their subjective opinion in place of the one arrived at the domestic Tribunal.”*

e) **In the case of LIC of India vs. R. Dhandapani, Hon'ble Supreme Court of India have held:-**

*“under Section 11-A of the Act only when it is satisfied that punishment imposed by the Management is wholly and shockingly disproportionate to the degree of guilt of the workman concerned. To support its conclusion the Industrial Tribunal or the Labour Court, as the case may be, has to give reasons in support of its decision. The power has to be exercised judiciously and mere use of the words “disproportionate” or “grossly disproportionate” by itself will not be sufficient.”*

7. But, the fact of the present matter is different and law laid down by the Hon'ble High Court as discussed above is not applicable to the present matter. However, matter of disciplinary action against the Petitioner in the present matter, is governed by the provision contained in the **Shastri award** which reads as under:-

*“In awarding punishment by way of disciplinary action, the authority concerned shall take into account the gravity of the misconduct, the previous record, if any of the employee and any other aggravating and extenuating circumstances exist, the misconduct may be condoned and in case such misconduct is of the ‘gross’ type, he may be merely discharged with or without notice or on payment of a month's pay and allowances in lieu of notice. Such discharge may also be given where the evidence is found to be insufficient to sustain the charge and where the bank does not, for some reason or other, think it expedient to retain the employee in question any longer in service. Discharge in such cases shall not be deemed to amount to disciplinary action”.*

However, Hon'ble High Court vide its order dated 6.7.2010 has given clear direction while remanding the matter back to Disciplinary Authority for imposing any other lesser punishment after taking the past service of the petitioner into consideration. However, as the record reveals that since the past service of the petitioner was without any blemish except a minor punishment of temporary nature was inflicted and moreover no notice was issued to the petitioner before taking into consideration of his earlier instance of minor past conduct. The said order of Disciplinary Authority suffers from illegality.

8. Therefore, in the facts and circumstances of the case, the punishment of dismissal imposed by the respondent against the petitioner cannot be said to be proportionate and commensurate to the charge levelled against him. Therefore, the impugned order dated 27.2.2015 of Disciplinary Authority in imposing the punishment of dismissal upon the Petitioner is not sustainable and liable to be set aside.

Point No.I is answered accordingly.

9. **Point No.II:-** However, the present matter of dismissal of the petitioner from service pertains to the year, 1998 and it has gone through several round litigation on various levels between the parties and it should be culminated at this stage is what the justice demands. Therefore, in these circumstances, as the matter has become old in terms of the period, instead of remanding back to the Disciplinary Authority for passing the fresh order of punishment in the facts and circumstances of the case, it would be apposite to pass the punishment order at this juncture of the matter so as to culminate the further round of litigation between the parties. In view of direction given by Hon'ble High Court for imposing appropriate punishment, the order passed in W.A. Nos. 562 and 613 of 2010, is extracted below:-

*“18. We have also gone through the Award of Labour Court as well as the order passed by the Learned Single Judge and to meet the ends of justice, we think it appropriate to remand the matter back to the disciplinary authority for imposing appropriate punishment.*

19. *In view of the aforementioned reasons, the Writ Appeal No.613 of 2010 filed by workman is dismissed and Writ Appeal No.562 of 2010 filed by bank is disposed of accordingly.”*

10. Admittedly, the charge against the petitioner was proved in the enquiry and the gravity of charge is not of such nature that would have warrant dismissal of the petitioner from service. Therefore, in facts and circumstances of the case, I am of the view that punishment of reduction to one stage lower to his scale of pay would serve the purpose of disciplinary action against the petitioner.

11. In view of the fore gone discussion and finding given at Point No.I, the impugned order dated 27.2.2015 passed by Respondent is liable to be set aside and the petitioner is liable to be awarded the punishment of reduction to one stage lower to his scale of pay.

This point is answered accordingly.

#### AWARD

In view of the fore gone discussion and finding at Points No. I & II, I am of the considered view that the action of the Respondent in dismissing the services of the Petitioner Sri P. Narsimhulu is neither legal nor justified. Therefore, the dismissal order dated 27.2.2015 upon the Petitioner passed by Respondent is hereby set aside and Petitioner be reinstated notionally by reducing to one stage lower to his scale of pay into service from the date of termination i.e., 31.1.1998. It is undisputed that he has attained superannuation age and he will be entitled for retiral benefits and he is also eligible for 50% of back wages. Therefore, Respondent is directed to pay retiral benefits, gratuity, etc., and 50% of back wages from the date of earlier punishment i.e., 31.1.1998 with all attendant benefits to the Petitioner Sri P. Narsimhulu, within two months from the date of receipt of this order, failing which 12% interest shall be payable by Respondent.

Award is passed accordingly. Transmit.

Dictated Smt. P. Phani Gowri, Personal Assistant, transcribed by her, corrected and signed by me on this the 29<sup>th</sup> day of July, 2024.

IRFAN QAMAR, Presiding Officer

#### Appendix of evidence

Witnesses examined for the

Petitioner

NIL

Witnesses examined for the

Respondent

NIL

#### Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 16 अगस्त, 2024

**का.आ. 1624.—**औद्योगिक विवाद अधिनियम 1947 (1947 का 14 ) की धारा 17 के अनुसरण में केन्द्रीय सरकार विशाखापत्तनम पोर्ट ट्रस्ट के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट

औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (58/2021) प्रकाशित करती है।

[सं. एल-34011/01/2021- आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 16th August, 2024

**S.O. 1624.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref 58/2021) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad as shown in the Annexure, in the industrial dispute between the management of Visakhapatnam Port Trust their workmen.

[No. L-34011/01/2021— IR(B-II)]

SALONI, Dy. Director

#### ANNEXURE

#### IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 22<sup>nd</sup> day of July, 2024

**INDUSTRIAL DISPUTE No. 58/2021**

Between:

The General Secretary,

Visakhapatnam Port & Dock

Mazdoor Sangh,

22-1-27, Kotha Agraharam Street,

Beside Brahmamgari Temple,

Fishing Harbour Road,

Vishakapatnam-530001.

.....Petitioner

AND

The Chairman,

Visakhapatnam Port Trust,

Vishakapatnam (AP)-

... Respondents

Appearances:

For the Petitioner : None

For the Respondent: Sri P. Sri Ram, Advocate

#### A W A R D

The Government of India, Ministry of Labour by its order No.L-34011/01/2021 (IR(B-II) dated-10.06.2021 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of Visakhapatnam Port Trust and their workmen. The reference is,

#### SCHEDULE

“Whether the claim of Visakhapatnam Port & Dock Mazdoor Sangh (BMS) that management of Visakhapatnam Port Trust had violated Recruitment Rules of Assistant Engineer (Elec) while granting promotion to junior employees – G.V. Das, M. Veera Venkata Appa Rao, Madhva Rao, PVVS Narayana and



J. Shiva Kumar to the post of AE (Elect.) and that it had resulted in injustice to senior employees, justified? If yes, what directions in this regard are necessary and what relief the Union is entitled to?"

The reference is numbered in this Tribunal as I.D. No. 58/2021 and notices were issued to the parties concerned.

2. Petitioner did not file any claim statement and documents despite sufficient opportunity extended to him. It seems he don't want to prosecute his case. Therefore, in absence of any claim statement a 'No-Claim' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Shri Vinay Panghal, LDC corrected by me on this the 22<sup>nd</sup> day of July, 2024

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the

Witnesses examined for the

Petitioner

Respondent

NIL

NIL

**Documents marked for the Petitioner**

NIL

**Documents marked for the Respondent**

नई दिल्ली, 16 अगस्त, 2024

**का.आ. 1625.—**औद्योगिक विवाद अधिनियम 1947 (1947 का 14 ) की धारा 17 के अनुसरण में केन्द्रीय सरकार **विशाखापत्तनम पोर्ट ट्रस्ट** के प्रबंधन, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **हैदराबाद** के पंचाट (30/2021) प्रकाशित करती है।

[सं. एल-12011/06/2021-आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 16th August, 2024

**S.O. 1625.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.30/2021) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of Visakhapatnam Port Trust their workmen.

[No. L-12011/06/2021-IR(B-II)]

SALONI, Dy. Director

**ANNEXURE**

**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD**

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 22<sup>th</sup> day of July, 2024

**INDUSTRIAL DISPUTE No. 30/2021**

Between:

The General Secretary,

The Viskhapatnam Port Employees Union (HMS),

Dharmasakti Bhavan, 26-15-204,

Vishakapatnam-530001.

.....Petitioner

AND

The Chairman,  
Visakhapatnam Port Trust,  
Vishakapatnam (A.P)-

... Respondents

Appearances:

For the Petitioner : None

For the Respondent: Shri P. Sri Ram, Advocate

**A W A R D**

The Government of India, Ministry of Labour by its order No.L-12011/06/2021 (IR(B-II)) Dated 23/03/2021 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of Visakhapatnam Port Trust and their workmen. The reference is,

**SCHEDULE**

“Whether the action of the management Visakhapatnam Port Trust by not granting two additional increments to the 9 number of Diesel Locomotive Drivers of OHC viz., S/Shri B. Umamaheswara Rao, P.V. Ramana, J. Appala Konda, A. Achayya, K. Narasinga Rao, K.A. Nageshwar Rao, B. Venkata Raju, V. Srinivasa Rao, & B. Danayya, Visakhapatnam Port Trust on promotion is justified? If not, what relief the concerned workman are entitled to?”

The reference is numbered in this Tribunal as I.D. No. 30/2021 and notices were issued to the parties concerned.

2. Petitioner absent on the date fixed for filing of claim statement and documents. Record reveals that notice served on Petitioner but none present on behalf of Petitioner. Therefore, in absence of Petitioner and non-filing of claim statement by the Petitioner, the case is dismissed and a ‘No Claim’ award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Shri Vinay Panghal, LDC corrected by me on this the 22<sup>th</sup> day of July, 2024.

IRFAN QAMAR, Presiding Officer

**Appendix of evidence**

Witnesses examined for the  
Petitioner  
NIL

Witnesses examined for the  
Respondent  
NIL

**Documents marked for the Petitioner**

NIL

**Documents marked for the Respondent**

NIL

नई दिल्ली, 16 अगस्त, 2024

का.आ. 1626.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स राधा कंस्ट्रक्शन के प्रबंधन के संबद्ध नियोजकों और श्री लेखराम; श्रीमती अंजनी पत्नी. स्वर्गीय लेखराम; राजेंद्र पुत्र स्व. स्वर्गीय लेखराम; ललित पुत्र स्व. स्वर्गीय लेखराम; संजय कुमार पुत्र स्व. स्वर्गीय लेखराम; हीरालाल पुत्र स्व. स्वर्गीय लेखराम के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर, पंचाट (रिफरेन्स न. 79/2014) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.08.2024 को प्राप्त हुआ था।

[सं. एल-29012/17/2014- आईआर(एम)]

दिलीप कुमार, अवर सचिव

New Delhi, the 16th August, 2024

**S.O. 1626.**—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Reference No. 79/2014**) of the **Central Government Industrial Tribunal cum Labour Court, Jabalpur** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s. Radha Construction** and **Shri Lekhram; Smt. Anjani W/o. Late Lekhram; Rajendra S/o. Late Lekhram; Lalit S/o. Late Lekhram; Sanjay Kumar S/o. Late Lekhram; Heeralal S/o. Late Lekhram** which was received along with soft copy of the award by the Central Government on 16.08.2024.

[No. L-29012/17/2014-IR(M)]

DILIP KUMAR, Under Secy.

#### ANNEXURE

#### THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/79/2014

Present: P.K.Srivastava

H.J.S..( Retd)

**1. Lekhram S/o. Chintaram**

R/o. Near Sharma Kirana, Pachpedhi

Panhdor, Patan, Distt.- Durg (CG)

Died during pendency and represented

By –

1/1. Smt. Anjani W/o. Late Lekhram

1/2. Rajendra S/o. Late Lekhram

1/3. Lalit S/o. Late Lekhram

1/4. Sanjay Kumar S/o. Late Lekhram

1/5. Heeralal S/o. Late Lekhram

**Workman**

**Versus**

**The Proprietor**

**M/S. Radha Constructions**

**Shop No.-705, C Market, Sector-6**

**Bhilai, Distt.- Durg (CG)**

**Management**

#### A W A R D

(Passed on this 02<sup>nd</sup> day of August-2024.)

As per letter dated 09/10/2014 by the Appropriate Government, Ministry of Labour, New Delhi has made this reference to the Tribunal under section-10 of Industrial Disputes Act, 1947 (in short the 'Act') as per reference number L-29012/17/2014 – IR(M) dt. 09/10/2014. The dispute under reference related to:-

***“Whether the action of M/s. Radha Construction, contractor engaged at Bhilai Steel Plant, Bhilai in terminating the services of Shri Lekhram S/o. Chitaram w.e.f. September 2012 is legal and justified ? If not, what relief the workman is entitled to ?”***

After registering the case on the basis of the reference received, Notices were sent to the parties and were duly served on them. The workman appeared and filed his statements of claim. No one appeared on behalf of the contractors.

**The case of the workman**, in short is that he was appointed in 1989-1990 by the contractor M/S. Radha Construction as a Labour and has worked till 25.09.2012 without any notice or compensation. The contractor was awarded contract by Bhilai Steel Plant for execution of work allotted in the work agreement entered into between the

Bhilai Steel Plant and the contractor. This action of the contractor is in violation of the provision of Section 25-F of the Industrial Disputes Act, 1947 (in short the Act, 1947). He requested that holding his termination against law, he be held entitled to reinstatement with back wages and benefits and also entitled to be regularized.

During the proceedings, the workman died. His legal heirs have been substituted on record.

In evidence, the workman side has filed affidavit. They have filed photocopy documents which have been proved.

Management of contractor firm did not appear and did not file any written statement of defense. They also did not file any affidavit of their witness or any document.

None appeared for management at the time of argument. Mr. Mahendra Shukla appeared for workman. I have heard his argument and have gone through the record.

The reference itself is the issue for determination.

The initial burden to prove its case is on the workman. The workman witness has stated in his affidavit that his father worked for 240 days in a year continuously. He has disclosed the date of his termination. He has proved the photocopy documents filed by him. Hence, the fact that he worked for 240 days continuously with his employer in a year is held proved and on this finding, he is held entitled to protection of Section 25-F & 25-G of the Act. Accordingly, his termination is held unjustified.

As regards the relief admissible to the workman, in view of the facts and circumstances above referred a lump sum compensation of Rs. 3,00,000/- in lieu of all his claims will meet the ends of justice to which he is held entitled to be paid by management of M/S. Radha Constructions within 30 days from the date of publication of Award, failing which interest @ of 8% per annum from the date of Award till payment. The reference stands answered accordingly.

DATE: 02/08/2024

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 16 अगस्त, 2024

का.आ. 1627.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार लाइफ इन्सुरेंस कॉर्पोरेशन ऑफ़ इंडिया के प्रबंधन के संबद्ध नियोजकों और श्री दीपक नामदेव के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर, पंचाट (रिफरेंस नं.- 01/2024) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.08.2024 को प्राप्त हुआ था।

[सं. जेड-16025/03/2024- आईआर(एम)-3]

दिलीप कुमार, अवर सचिव

New Delhi, the 16th August, 2024

S.O. 1627.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Reference No. 01/2024**) of the **Central Government Industrial Tribunal cum Labour Court, Jabalpur** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Life Insurance Corporation of India** and **Shri Deepak Namdeo** which was received along with soft copy of the award by the Central Government on 16.08.2024.

[No. Z-16025/03/2024-IR(M)-3]

DILIP KUMAR, Under Secy.

#### ANNEXURE

#### THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/A/01/2024

Present: P.K.Srivastava

H.J.S..(Retd)

Shri Deepak Namdeo

S/o. Shri Kamal Kishore Namdeo

**302, Shivaji Nagar, Malwa Mill, Indore (M.P.)**

**& 19 Others**

**Workman**

**Versus**

**Life Insurance Corporation of India  
Through – Senior Divisional Manager  
Divisional Office – Jeevan Prakash, 19, M.G.  
Road, Near High Court, Indore (M.P.)**

**Management**

**ORDER**

**(Passed on this 26<sup>th</sup> day of July-2024)**

1. This case has come up on the basis of an application Under Section 33 of the Industrial Disputes Act 1947, hereinafter referred to by the word 'Act', filed by the applicant union wherein he has taken a case that the members of the union are working as Class-III /Class-IV employees of management they raised a dispute with respect to regularization of their services and equal pay for equal work which was registered as Case No.-RLC-8(37)/2023. Notices were issued to the management/ opposite party. Two sittings were held on 09.11.2023 and 07.12.2023 but conciliation could not be reached at, hence reference was sent to this Tribunal which is pending adjudication. In the meanwhile a circular was issued by the officers of management to all the branches within Indore Division. The employees were told that their services will be transferred to outsourcing agency M/s. Jay Balaji Security Service from 01.03.2024 and the outsourcing agency shall be their employers from 01.03.2024. This action of management amounts to change in service condition workmen were members of the applicant union which is against the Act, hence, is illegal, malafide and arbitrary. The workmen union accordingly requested that holding this action of management against law, they be restrained from changing the service conditions of the workmen. An affidavit filed in support.
2. Notices were issued to management which were served on them. They have filed written reply to the petition in which they have stated that they have taken a policy decision to outsource the work of housekeeping and noncore services through outsourcing agency in consonance with the guidelines/ instructions issued vide circular no.-IRDA/Life/CIR/GLD/ 013/02/2011, DATED 01.02.2011. Issue regarding employment of workers through outsourcing agency was raised by a union Madhya Pradesh Life Insurance Corporation of India Karmachari Sangh Indore before Hon'ble High Court of M.P. Jabalpur in W.P. No.-17420/2022 which was dismissed after hearing vide order dated 17.08.2023 with an observation that the advertisement issued for appointment of casual labour through contractors for Jabalpur, Bhopal, Indore Division and the communication dated 13.06.2022 to the branches to stop allotment of work of sweeping and cleaning through temporary employee from 15.06.2022 and also that these works will taken through outsourcing agency has force of law and has been upheld by Hon'ble High Court. It is in the light of this background, management issued a communication on 19.02.2024 to the branches informing them that after approval of competent authority manpower outsourcing contract has been given to M/s. Jay Balaji Securities. According to management this decision taken much before the dispute raised and the action in compliance of the policy decision has been taken now, which we cannot be faulted in law. According to management there is no violation of Section 33 of the Act. Management has accordingly prayed that the petition be dismissed.
3. I have heard argument of learned Counsel for the workman union Mr. Arvind Shrivastava and Mr. Pranay Chaubey learned Counsel for management. I have also gone through the record.
4. Learned Counsel for management has referred to judgment of Hon'ble High Court of M.P. in W.P. No.-17420/2022 and has submitted that the outsourcing bits were sought to be quashed and the workmen were sought to be permitted by the management to continue their services till their age of superannuation and also be given status of permanent employee. This petition was dismissed rejecting the claim of regularization of workmen. The Hon'ble High Court also observed it was not a case of changing one set of temporary employees with another set of temporary employees rather it was change of employers. As further submitted by learned Counsel, in the light of this decision of Hon'ble High Court, and also the fact that policy decision was taken much earlier, the petition has no merit.
5. On the other hand, learned Counsel for applicant union has submitted that Hon'ble High Court has only upheld the policy decision regarding outsourcing. He has referred to para 12 of the judgment wherein the question whether taking work from the workmen as employees of outsourcing agency will amount to change of service conditions of the workmen who have been working till date as employee of the management, or not is not in issue in the said

writ. Further he has submitted that the proposed change in the service conditions as mentioned above, was from 01.03.2024 and on that date a dispute was pending adjudication/conciliation. Hence, according to learned Counsel, Section 33 of the Act will apply.

6. Without entering into merits Section 33 of the Act is being reproduced as follows :-

### **Section 33 in The Industrial Disputes Act, 1947**

33. Conditions of service, etc., to remain unchanged under certain circumstances during pendency of proceedings. *[Substituted by Act 36 of 1956, Section 21, for Section 33 (w.e.f. 10.3.1957). ]*

*(1) During the pendency of any conciliation proceeding before a conciliation officer or a Board or of any proceeding before [an arbitrator or] [ Inserted by Act 36 of 1964, Section 18 (w.e.f. 19.12.1964).] [a Labour Court or Tribunal or National Tribunal in respect of an industrial dispute, no employer shall-*

*(a) in regard to any matter connected with the dispute, alter, to the prejudice of the workmen concerned in such dispute, the conditions of service applicable to them immediately before the commencement of such proceeding; or*

*(b) for any misconduct connected with the dispute, discharge or punish, whether by dismissal or otherwise, any workmen concerned in such dispute, save with the express permission in writing of the authority before which the proceeding is pending.*

*(2) During the pendency of any such proceeding in respect of an industrial dispute, the employer may, in accordance with the standing orders applicable to a workman concerned in such dispute ] [Substituted by Act 36 of 1956, Section 21, for Section 33 (w.e.f. 10.3.1957). ] [or, where there are no such standing orders, in accordance with the terms of the contract, whether express or implied, between him and the workman] [Inserted by Act 36 of 1964, Section 18 (w.e.f. 19.12.1964).]-*

*(a) alter, in regard to any matter not connected with the dispute, the conditions of service applicable to that workman immediately before the commencement of such proceeding; or [Substituted by Act 36 of 1956, Section 21, for Section 33 (w.e.f. 10.3.1957). ]*

*(b) for any misconduct not connected with the dispute, discharge or punish, whether by dismissal or otherwise, that workman: Provided that no such workman shall be discharged or dismissed, unless he has been paid wages for one month and an application has been made by the employer to the authority before which the proceeding is pending for approval of the action taken by the employer.*

*(3) Notwithstanding anything contained in sub-section (2), no employer shall, during the pendency of any such proceeding in respect of an industrial dispute, take any action against any protected workman concerned in such dispute-*

*(a) by altering, to the prejudice of such protected workman, the conditions of service applicable to him immediately before the commencement of such proceedings; or*

*(b) by discharging or punishing, whether by dismissal or otherwise, such protected workman, save with the express permission in writing of the authority before which the proceeding is pending. Explanation.- For the purposes of this sub-section, a "protected workman ", in relation to an establishment, means a workman who, being ] [a member of the executive or other office bearer] [ Substituted by Act 45 of 1971, Section 5, for " an officer" (w.e.f. 10.3.1957).] of a registered trade union connected with the establishment, is recognised as such in accordance with rules made in this behalf.*

*(4) In every establishment, the number of workmen to be recognised as protected workmen for the purposes of sub-section (3) shall be one per cent. of the total number of workmen employed therein subject to a minimum number of five protected workmen and a maximum number of one hundred protected workmen and for the aforesaid purpose, the appropriate Government may make rules providing for the distribution of such protected workmen among various trade unions, if any, connected with the establishment and the manner in which the workmen may be chosen and recognised as protected workmen.*

*(5) Where an employer makes an application to a conciliation officer, Board, [Substituted by Act 36 of 1956, Section 21, for Section 33 (w.e.f. 10.3.1957).] an arbitrator, [Inserted by Act 36 of 1964, Section 18 (w.e.f. 19.12.1964).] [Labour Court, Tribunal or National Tribunal under the proviso to sub-section (2) for approval of the action taken by him, the authority concerned shall, without delay, hear such application and pass, [Substituted by Act 36 of 1956, Section 21, for Section 33 (w.e.f. 10.3.1957).] [within a period of three months from the date of receipt of such application] [Substituted by Act 46 of 1982, Section 17, for " as expeditiously as possible" (w.e.f. 21.8.1984).] such order in relation thereto as it deems fit: [Substituted by Act 36 of 1956, Section 21, for Section 33 (w.e.f. 10.3.1957).*

*Provided that where any such authority considers it necessary or expedient so to do, it may, for reasons to be recorded in writing, extend such period by such further period as it may think fit:*

*Provided further that no proceedings before any such authority shall lapse merely on the ground that any period specified in this sub-section had expired without such proceedings being completed.] [ Inserted by Act 46 of 1982, Section 17 (w.e.f. 21.8.1984).]*

7. From perusal of the said provision it is clear that for application of Section 33, the first requirement is that a dispute is pending between the workmen and management for adjudication/ conciliation in the knowledge of management. **Secondly**, the change in service condition should be during pendency of the said dispute. Scanning the facts in the present case, both the conditions required for application of protection U/S. 33 of the Act are present in the case in hand. The only point remains to be seen is whether the above referred judgment divests this Tribunal from entertaining the claim of the workmen because policy decision regarding outsourcing of services has been upheld by Hon'ble High Court in the said decision. Relief no.- A & B in the petition and para 12 of the judgment required to be referred to in this respect which are as follows:-

**“Relief No.-A :-**

This Hon'ble Court be pleased to quash the impugned information issued by email dated 13.06.2022 and further in pursuance to that Tender/Bids issued in Bhopal, Jabalpur & Indore Division also be quashed.

**Relief No.-B :-**

Alternatively, the respondents may kindly also be directed to continue services of the member of petitioner union till their age of superannuation and also be status of permanent employee in regular pay scale like other permanent employees of the department.”

**Para 11 & 12 of the Judgment:-**

**“Para 11** – In view of the fact that petitioner has decided to give up relief no.-2, it is therefore observed that this case shall be considered for relief no.-1 only.

**Para 12** – Whether the respondents can employ the sweepers etc., through outsourcing agency or not and whether it would amount to change of service conditions of petitioners or not, is no more *res integra*.”

8. It is now clear that the dispute whether changing the employers of the members of the workman union (applicant) will amount to change of service conditions of the workmen or not was not the part of *lis* in the said writ. Hence, naturally, the referred judgment does not debar this Tribunal from examining the legality of change of employers of the members of the applicant union under Section 33 of the Act.

9. Change of employer from the management to outsourcing agency is undoubtedly change of service condition. As it is established that it is been done during pendency of a dispute for adjudication/ conciliation in the case in hand, the workmen are held entitled to protection from this action of management.

10. **Accordingly, allowing the petition the management of LIC Indore Divisional Office is held obligated in law not to change the working condition of the workmen of the applicant union by way of changing their employers from the management of LIC to outsourcing agency and are directed accordingly. No order as to cost.**

DATE:- 26/07/2024

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 16 अगस्त, 2024

**का.आ. 1628.**—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स राधा कंस्ट्रक्शन के प्रबंधन के संबद्ध नियोजकों और श्री परेसर कुमार के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर, पंचाट (रिफरेन्स न.- 77/2014) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.08.2024 को प्राप्त हुआ था।

[सं. जेड-29012/15/2014- आईआर(एम)]

दिलीप कुमार, अवर सचिव

New Delhi, the 16th August, 2024

**S.O. 1628.**—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Reference No. 77/2014**) of the **Central Government Industrial Tribunal cum Labour Court, Jabalpur** as shown in the Annexure, in the Industrial dispute between the employers in relation

to **M/s. Radha Construction and Shri Paresar Kumar** which was received along with soft copy of the award by the Central Government on 16.08.2024.

[No. Z-29012/15/2014-IR(M)]

DILIP KUMAR, Under Secy.

### ANNEXURE

**THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR**

**NO. CGIT/LC/R/77/2014**

**Present: P.K.Srivastava**

**H.J.S..( Retd)**

**Shri Paresar Kumar**

**S/o. Late Kumawan Kumar**

**At Room No.-7A, Street No.-17, Sector-5**

**Bhila, District – Durg (C.G.)**

**Workman**

**Versus**

**The Proprietor**

**M/s. Radha Construction**

**Shop No.-705, 'C' Market, Sector-6**

**Bhila, District – Durg (C.G.)**

**Management**

### A W A R D

**(Passed on this 02<sup>nd</sup> day of August-2024.)**

As per letter dated 09/10/2014 by the Appropriate Government, Ministry of Labour, New Delhi has made this reference to the Tribunal under section-10 of Industrial Disputes Act, 1947 (in short the 'Act') as per reference number L-29012/15/2014 – IR(M) dt. 09/10/2014. The dispute under reference related to:-

***“Whether the action of M/s. Radha Construction, contractor engaged at Bhilai Steel Plant, in terminating the services of Shri Paresar Kumar S/o. Late Kumawan Kumar w.e.f. November 2012 is legal and justified ? If not, what relief the workman is entitled to ?”***

After registering the case on the basis of the reference received, Notices were sent to the parties and were duly served on them. The workman appeared and filed his statements of claim. No one appeared on behalf of the contractors.

**The case of the workman**, in short is that he was appointed in 1989-1990 by the contractor M/S. Radha Construction as a Labour and has worked till 19.11.2012 without any notice or compensation. The contractor was awarded contract by Bhilai Steel Plant for execution of work allotted in the work agreement entered into between the Bhilai Steel Plant and the contractor. This action of the contractor is in violation of the provision of Section 25-F of the Industrial Disputes Act, 1947 (in short the Act, 1947). He requested that holding his termination against law, he be held entitled to reinstatement with back wages and benefits and also entitled to be regularized.

In evidence, the workman has filed his affidavit. He has filed photocopy documents and has proved.

Management of contractor firm did not appear and did not file any written statement of defense. They also did not file any affidavit of their witness or any document.

None appeared for managements at the time of argument. Mr. Mahendra Shukla appeared for workman. I have heard his argument and have gone through the record.

The reference itself is the issue for determination.

The initial burden to prove its case is on the workman. He has pleaded and has stated in his affidavit that he worked for 240 days in a year continuously. He has disclosed the date of his termination. He has proved the photocopy documents filed by him. Hence, the fact that he worked for 240 days continuously with his employer in a year is held proved and on this finding, he is held entitled to protection of Section 25-F & 25-G of the Act. Accordingly, his termination is held unjustified.



As regards the relief admissible to the workman, in view of the facts and circumstances above referred a lump sum compensation of Rs. 3,00,000/- in lieu of all his claims will meet the ends of justice to which he is held entitled to be paid by management of M/S. Radha Constructions within 30 days from the date of publication of Award, failing which interest @ of 8% per annum from the date of Award till payment. The reference stands answered accordingly.

DATE: 02/08/2024

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 16 अगस्त, 2024

का.आ. 1629.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार फेरो स्क्रैप निगम लिमिटेड के प्रबंधन के संबद्ध नियोजकों और अरुण कुमार सिंह सिसोदिया के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर, पंचाट (रिफरेन्स नं.- 05/2016) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.08.2024 को प्राप्त हुआ था।

[सं. जेड-16025/04/2024- आईआर(एम)-94]

दिलीप कुमार, अवर सचिव

New Delhi, the 16th August, 2024

S.O. 1629.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Reference No. 05/2016**) of the **Central Government Industrial Tribunal cum Labour Court, Jabalpur** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Ferro Scrap Nigam Limited** and **Arun Kumar Singh Sisodia** which was received along with soft copy of the award by the Central Government on 16.08.2024.

[No. Z-16025/04/2024-IR(M)-94]

DILIP KUMAR, Under Secy.

#### ANNEXURE

#### THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/RC/05/2016

Present: P.K.Srivastava

H.J.S..(Retd)

Arun Kumar Singh Sisodia

S/o. Shri J.N. Singh, Ticket No.-BH 554, Senior

Crane/DPL Operator-II, Ferro Scrap Nigam Ltd

R/o. 41/11, Radhika Nagar, PS Supela,

Bhila, District Durg (CG)

Workman

Versus

1. Ferro Scrap Nigam Limited

FSNL Bhawan, Equipment Chowk, Central

Avenue, Post Box No. 37, Bhilai 490001 (CG)

Through its Chairman-cum-Managing Director

2. The Assistant General Manager (P7&A)

Ferro Scrap Nigam Limited

**FSNL Bhawan, Equipment Chowk, Central**

**Avenue, Post Box No. 37, Bhilai 490001 (CG)**

**Management**

**(J U D G E M E N T)**

**(Passed on this 1<sup>st</sup> day of August-2024)**

The workman has filed this petition U/S. 2-A (2 & 3) of the Industrial Disputes Act, hereinafter, referred to by the word 'Act' seeking the relief of his reinstatement with all back wages and benefits setting aside order of Disciplinary Authority dated 09.06.2015 awarding him punishment of his removal from services of management and order of Appellate Authority dated 11.06.2015 dismissing his appeal.

**Case of the workman** is mainly that his service conditions are governed by Certified Standing Orders duly signed and published in 1979. The Workman is General Secretary of the workers union. To deter him from union activities, the management issued him a charge sheet on January 12, 2015 with the allegation that he had obtained half believe for three days that is from August 12, 2013 to August 13, 2013 for two days and from August 16, 2013 to August 17, 2013 for 1 day as well Festival leave on August 20, 2013, which was against the rules of the company as he was under detention in jail for the period from August 12, 2013 two August 24, 2013 in connection with certain crimes allegedly committed by him. Also, it was the allegation that the workman furnished false information prejudicial to the interests of management and was advised to submit reply within 10 days from the date of receipt of the charge sheet. He did submit his reply on January 12, 2015 and denied the charges. The management instituted a departmental enquiry against him for the charges and Sri R.K. Singhal, General Manager SAP was appointed enquiry officer. Sri A.K. Mahapatra, Assistant General Manager HRD was appointed the presenting officer.

**According to the workman**, first sitting in the departmental enquiry was held on February 7, 2015, charge sheet was served on him and charges were denied by him. After two adjournments, management witness number one R.K. Sharma was examined by management and was cross-examined by the workman. And other management witness number two M.K. Sharma was examined by presenting of service on March 9, 2015 and was cross-examined by the workman. On the request of the workman, management witness number one was further cross-examined by him. It is further, the case of the workman that he examined two persons as defence witnesses who were cross-examined by the presenting officer. Thereafter, as alleged by the workman in his petition, enquiry report dated April 24, 2015 was submitted to the disciplinary authority, holding the charges of misconduct against the Workman proved. A copy of the said enquiry report was also served on the workman. The disciplinary authority sent a copy of the enquiry report wide, later dated April 30, 2015 and the workman was required to put his case in form of representation against the enquiry report. After finding the representation against the enquiry report insufficient, the impugned order of dismissal was passed by the disciplinary authority. Also, it has been stated that the workman preferred an appeal to the appellate authority on June 11, 2015, which was also dismissed by the appellate authority.

**According to the workman**, the enquiry was vitiated on following grounds-

1. The enquiry officer appointed was a general manager who is below the rank of disciplinary authority.
2. No list of documents and list of witnesses to be produced during the enquiry was supplied to the workman along with the chargesheet.
3. No leave application said to be submitted by the workman for getting his leave sanctioned which is the basis of the charge was ever produced during the enquiry.
4. The workman had requested further cross-examination of management witness number one which was not granted at this stage of evidence, a prosecution and whether it was granted after the closure of defence evidence.

**The case of management** is that departmental enquiry is legally conducted, that is there is no illegality or any material irregularity committed during the enquiry. Charges are proved from the evidence in enquiry and the punishment is proportionate to the charges.

Following **Preliminary Issue** was framed on 10.08.2022 the basis of pleadings :-

***Whether the enquiry conducted against the Workman is just proper and legal ?***

**In evidence** on preliminary issue, the workman examined himself as a witness. He has been cross-examined by management side.

No witness has been examined by management. Has filed original enquiry documents.

The workman has filed documents regarding enquiry which are chargesheet, reply on chargesheet, enquiry proceedings, enquiry report, letter of management, sending copy of enquiry report, reply of the workman on enquiry

report, dismissal order, order of appellate authority. All these documents had been admitted by management and marked exhibits.

**The preliminary issue was decided vide order dated 17.01.2024 holding the departmental enquiry legal and proper. This order is part of this Award.**

Following additional issues were framed on 17.01.2024

1. ***Whether, charges are proved from enquiry ?***
2. ***Whether, punishment awarded is appropriate to the charge ?***

Parties were given opportunity to lead their evidence on the additional issues. Workman side files judgment of Criminal Court and his affidavit. Management did not file any evidence.

I have heard argument of learned Counsel Shri Aditya Singh for workman. Learned Counsel for management Shri Praveen Namdeo filed written argument. Workman side has also filed written arguments which are part of record. I have gone through the written arguments and the record as well.

**Additional Issue No.-1 :-**

According to the charge-sheet, the charge against the workman was that he obtained half pay leave for the period of 3 days from 12.08.2013 to 14.08.2013 and two days from 16.08.2013 to 17.08.2013 and one day festival leave on 20.08.2013 whereas it was found that during the period from 12.08.2013 to 24.08.2013 he was detained in Judicial Custody and was in jail in connection with a case U/S. 186/353/448/419 r/w Section 34 IPC, thus intentionally furnished false information pre-judicial to the interest of management and company and thus obtained half pay leave which could only be obtained on medical grounds or private affairs and not on detention in jail, thus committed grave misconduct under Clause-25 (28) of Certified Standing Orders.

The other charge was that without bringing in the notice and knowledge of management of company regarding his detention in jail, he obtained half pay leave and half payment of salary as well full salary of festival leave fraudulently and dishonestly which is grave misconduct under Clause-25(2) of Standing Orders.

Both the charges have been considered acts subversive of discipline and the management of company to lost confidence in him. The workman denied these charges.

As it comes out from perusal of enquiry, management produced attendance punch card of the workman, copy of ledger sheet for 2013, copy of vigilance report and copy of complaint. Also the original register of under trial prisoners was produced during the enquiry. Management witness no.-1 explained about the procedure of sanction of leave with regards to non executive cadre to which the workman belongs. He states that the employee files his leave book with date of application, type of leave, period of leave alongwith his signature. This leave is recommended by Shift Incharge/ Operational Head and is approved by Unit Head. After that the same is recorded in the attendance register and attendance punch card, then in leave ledger. This witness further states that a monthly statement of attendance is prepare on the basis of which salary is drawn.

The other management witness also reiterates the procedure regarding grant of leave as stated by the previous witness from management but he also is not in a position to state whether he had seen the leave book of the workman or not. He states on this point that he has given his statement on the basis of documentary evidence and his own recollection.

The other two witnesses are examined by the workman as his defense witnesses who stated that they received oral information from the side of workman that he was in custody during the period in question.

The settled proposition of law with respect to proof of charge in a departmental proceedings is that the charge should be proved to the extent of probability only and not beyond reasonable doubt. Following judgments may be referred to in this respect.

*Scope of disciplinary proceedings and scope of criminal proceedings are quite distinct, exclusive and independent of each other. Standards of proof in the two proceedings are also different. Ref. T.N.C.S. Corpn. Ltd. vs. K. Meerabai, (2006) 2 SCC 255*

*Standard of proof in a departmental enquiry which is quasicriminal/quasi-judicial in nature: Disciplinary proceedings, however, being quasi-criminal in nature, **there should be some evidence to prove the charge.** Although the charges in a departmental proceedings are not required to be proved like a criminal trial i.e. beyond all reasonable doubts, we cannot lose sight of the fact that the enquiry officer performs a quasijudicial function, who upon analyzing the documents must arrive at a conclusion that there had been a preponderance of probability to prove the charges on the basis of materials on record. While doing so, he cannot take into consideration any irrelevant fact. He cannot refuse to consider the relevant facts. He cannot shift the burden of proof. He cannot reject the relevant testimony of the witnesses only on the basis of surmises and conjectures. Ref: (i) **Nirmala J. Jhala Vs.***

*State of Gujarat & Another, AIR 2013 SC 1513 (paras 10, 11, 12 & 13). (ii) M.V. Bijlani Vs. Union of India, (2006) 5 SCC 88 (Para 25)*

*In the cases of (i) NOIDA Entrepreneurs Association Vs NOIDA & others, AIR 2007 SC 1161 (i4i) State Bank of India Vs. R.B. Sharma, (2004) 7 SCC 27 (iii) Kendriya Vidyalaya Sangathan Vs. T. Srinivas, (2004) 7 SCC 442 (iv) Depot Manager, APSRTC Vs. Mohd. Yousuf Miya, (1997) 2 SCC 699 (v) Captain M. Paul Anthony Vs. Bharat Gold Mines Limited (1999) 3 SCC 679 and (vi) State of Rajasthan Vs. B.K. Meena, (1996) 6 SCC 417 (vi) Pratap Singh Vs. State of Punjab, AIR 1964 SC 72 (vii) Jang Bahadur Singh Vs. Baij Nath, AIR 1969 SC 30, it has been laid down by the Hon'ble Supreme Court that "the purpose of departmental enquiry and of prosecution are two different and distinct aspects. Departmental Enquiry is to maintain discipline in the service and efficiency of public service. Crime is an act of commission in violation of law or of omission of public duty. The enquiry in a departmental proceeding relates to the conduct or breach of duty by the delinquent officer to punish him for his misconduct defined under the relevant statutory rules or law. It is the settled legal position that the strict standard of proof or applicability of the Evidence Act stands excluded in a departmental proceeding. Criminal Proceedings and the departmental proceeding under enquiry can go on simultaneously."*

*In the case of T.N.C.S. Corporation Ltd. Vs. K. Meerabai, (2006) 2 SCC 255, it has been held by the Hon'ble Supreme Court that the scopes of the disciplinary proceedings and of criminal proceedings are quite distinct, exclusive and independent of each other. Standards of proof in the two proceedings are also different.*

*In the cases of Mohd. Saleem Siddiqui Vs. State of UP & others, (2011) 2 UPLBEC 1575 (Allahabad High Court) and Ajeet Kumar Naag Vs. General Manager Indian Oil Corporation Ltd. Haldia, JT 2005 (8) SC 425, the distinction between departmental enquiry and criminal proceedings has been drawn as under: "The two proceedings i.e. criminal and departmental are entirely different. They operate in different fields and have different objectives. The object of criminal proceedings is to inflict appropriate punishment on offender and the purpose of enquiry proceedings is to deal with the delinquent departmentally and to impose penalty in accordance service rules the rule relating to appreciation of evidence in the two proceedings is also not similar. In criminal law burden of proof is on the prosecution and unless the prosecution is able to prove the guilt of accused beyond reasonable doubts, he cannot be convicted by a court of law. In departmental enquiry, on the other hand, penalty can be imposed on the delinquent officer on a finding recorded on the basis of preponderance of probability. Procedure with respect to standard of proof in criminal case and departmental enquiry are different. In the case of departmental enquiry the technical rules of evidence have no application and the doctrine of "proof beyond doubt" has also no application in the departmental enquiry. Criminal prosecution is launched for an offence for violation of a duty the offender owes to the society or for breach of which law has provided that the offender shall make satisfaction to the public. So crime is an act of commission in violation of law or of omission of public duty. The departmental enquiry is to maintain discipline in the service and efficiency of public service. There would be no bar to proceed simultaneously with departmental enquiry and trial of criminal case. "*

In the case in hand, the workman admitted his absence from work place but has denied having filed any application for leave during the period under the charge. This also comes out from the enquiry papers that entries in all the further documents i.e., attendance ledger, attendance register, leave book etc. are made on the basis of leave application and sanction order. When the workman denies having applied for leave, his leave application, on the basis of which the leave was sanctioned to him according to management, becomes the core evidence. This evidence has never surfaced during the enquiry though consistently demanded by the workman. Hence, in absence of this evidence which is the leave application book, the finding of the Enquiry Officer holding the charge of misconduct with regard to getting leave sanctioned without disclosing facts cannot be held to have been recorded correctly. Hence, this finding of the Enquiry Officer is held perverse.

**As regards the second charge**, which is not giving information to management regarding detention in jail by the workman which is said to be misconduct under Clause-25(2) of Standing Orders, the said clause is being reproduced as follows:-

**Clause-25(2) – Theft, fraud or dishonesty in connection with company's business or property.**

As stated above the basis of the charge is that without bringing to the notice and knowledge of management of company regarding his detention in jail the workman had obtained benefits of half payment of salary during the period of HPL and full salary for festival leave fraudulently and dishonestly.

**(The same allegations are the basis of charge no.-1 also which is under Clause-25(28) of Certified Standing Orders).**

There is no document produced during enquiry that the information was given by the workman and the defense witnesses stated during the enquiry that oral information in this respect was received to them, this charge might sustain. The fact that when the workman was in custody, he could naturally not inform the management about his custody but there is nothing on record produced during enquiry that the workman informed the management regarding his custody after he was released. There still remains a fact that under Clause-12 of the Standing Orders, the

workman might have been granted one of the various types of leaves mentioned in the Clause-12 for his absence during the period of his detention.

**In the light of above discussion and constrained to hold the finding of the Enquiry Officer with respect to the charges nothing but recorded perversely. The charges against the workman are held not proved. Additional issue no.-1 is answered accordingly.**

**Additional Issue No.-2 :-**

In the light of findings on Additional Issue No.-1 the order of the Disciplinary Authority and Appellate Authority rewarding punishment of dismissal of the workman from service cannot sustain and is held to be unjustified. Even if the charges were proved, punishment of removal from service for the charge of obtaining leave of only six days by mentioning incorrect grounds is not so grave to warrant maximum punishment of removal from service.

The Judgment of Hon'ble the Apex Court in the case of **Deepali Gundu Surwasey vs. Kranti Junior Adhyapak Mahavidyalaya, (2013) 10 SCC 324**, the following paragraphs are being reproduced as follows:-

**“This extract is taken from *Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya, (2013) 10 SCC 324 : (2014) 2 SCC (L&S) 184 : 2013 SCC OnLine SC 719 at page 356***

**38.** *The propositions which can be culled out from the aforementioned judgments are:*

**38.1.** *In cases of wrongful termination of service, reinstatement with continuity of service and back wages is the normal rule.*

**38.2.** *The aforesaid rule is subject to the rider that while deciding the issue of back wages, the adjudicating authority or the court may take into consideration the length of service of the employee/workman, the nature of misconduct, if any, found proved against the employee/workman, the financial condition of the employer and similar other factors.*

**38.3.** *Ordinarily, an employee or workman whose services are terminated and who is desirous of getting back wages is required to either plead or at least make a statement before the adjudicating authority or the court of first instance that he/she was not gainfully employed or was employed on lesser wages. If the employer wants to avoid payment of full back wages, then it has to plead and also lead cogent evidence to prove that the employee/workman was gainfully employed and was getting wages equal to the wages he/she was drawing prior to the termination of service. This is so because it is settled law that the burden of proof of the existence of a particular fact lies on the person who makes a positive averment about its existence. It is always easier to prove a positive fact than to prove a negative fact. Therefore, once the employee shows that he was not employed, the onus lies on the employer to specifically plead and prove that the employee was gainfully employed and was getting the same or substantially similar emoluments.*

**38.4.** *The cases in which the Labour Court/Industrial Tribunal exercises power under Section 11-A of the Industrial Disputes Act, 1947 and finds that even though the enquiry held against the employee/workman is consistent with the rules of natural justice and/or certified standing orders, if any, but holds that the punishment was disproportionate to the misconduct found proved, then it will have the discretion not to award full back wages. However, if the Labour Court/Industrial Tribunal finds that the employee or workman is not at all guilty of any misconduct or that the employer had foisted a false charge, then there will be ample justification for award of full back wages.*

**38.5.** *The cases in which the competent court or tribunal finds that the employer has acted in gross violation of the statutory provisions and/or the principles of natural justice or is guilty of victimising the employee or workman, then the court or tribunal concerned will be fully justified in directing payment of full back wages. In such cases, the superior courts should not exercise power under Article 226 or 136 of the Constitution and interfere with the award passed by the Labour Court, etc. merely because there is a possibility of forming a different opinion on the entitlement of the employee/workman to get full back wages or the employer's obligation to pay the same. The courts must always keep in view that in the cases of wrongful/illegal termination of service, the wrongdoer is the employer and the sufferer is the employee/workman and there is no justification to give a premium to the employer of his wrongdoings by relieving him of the burden to pay to the employee/workman his dues in the form of full back wages.*

**38.6.** *In a number of cases, the superior courts have interfered with the award of the primary adjudicatory authority on the premise that finalisation of litigation has taken long time ignoring that in majority of cases the parties are not responsible for such delays. Lack of infrastructure and manpower is the principal cause for delay in the disposal of cases. For this the litigants cannot be blamed or penalised. It would amount to grave injustice to an employee or workman if he is denied back wages simply because there is long lapse of time between the termination of his service and finality given to the order of reinstatement.*

*The courts should bear in mind that in most of these cases, the employer is in an advantageous position vis-à-vis the employee or workman. He can avail the services of best legal brain for prolonging the agony of the sufferer i.e. the employee or workman, who can ill-afford the luxury of spending money on a lawyer with certain amount of fame. Therefore, in such cases it would be prudent to adopt the course suggested in Hindustan Tin Works (P) Ltd. v. Employees [Hindustan Tin Works (P) Ltd. v. Employees, (1979) 2 SCC 80 : 1979 SCC (L&S) 53].*

**38.7.** *The observation made in J.K. Synthetics Ltd. v. K.P. Agrawal [(2007) 2 SCC 433 : (2007) 1 SCC (L&S) 651] that on reinstatement the employee/workman cannot claim continuity of service as of right is contrary to the ratio of the judgments of three-Judge Benches [Hindustan Tin Works (P) Ltd. v. Employees, (1979) 2 SCC 80 : 1979 SCC (L&S) 53] , [Surendra Kumar Verma v. Central Govt. Industrial Tribunal-cum-Labour Court, (1980) 4 SCC 443 : 1981 SCC (L&S) 16] referred to hereinabove and cannot be treated as good law. This part of the judgment is also against the very concept of reinstatement of an employee/workman.”*

**The case of the workman** is fully covered under this Judgment. Hence, holding the punishment order unjust in law, the workman is held entitled to be reinstated with all back wages and consequential benefits treating him to be in continuous service from the date of the dismissal order. Additional issue no.-2 is answered accordingly.

On the basis of above discussion, the petition is disposed as follows :-

### ORDER

**Holding the order dated 09.06.2015 awarding punishment of removal of the workman Arun Kumar Singh Sisodia from service and the order of the Appellate Authority dated 03.08.2015 dismissing the appeal unjustified in law, the workman is held entitled to be reinstated with all back wages and consequential benefits treating him to be in continuous service from the date of the dismissal order, within 30 days from the date of publication of this Award, failing which interest @ of 8% from the date of Award till payment. He is further held entitled to Rs. 25000/- as litigation cost from management.**

DATE:- 01/08/2024

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 16 अगस्त, 2024

**का.आ. 1630.**—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स राष्ट्रीय इस्पात निगम लिमिटेड के प्रबंधन के संबंधित नियोजकों और विसाखा उक्कु कॉन्ट्रैक्ट कार्मिका संघम (इंटक) के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद, पंचाट (रिफरेन्स नं.- 22/2023) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.08.2024 को प्राप्त हुआ था।

[सं. जेड-16025/04/2024- आईआर(एम)-95]

दिलीप कुमार, अवर सचिव

New Delhi, the 16th August, 2024

**S.O. 1630.**—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Reference No. 22/2023) of the **Central Government Industrial Tribunal cum Labour Court, Hyderabad** as shown in the Annexure, in the Industrial dispute between the employers in relation to M/s **Rashtriya Ispat Nigam Limited** and **Visakha Ukku Contract Karmika Sangham (INTUC)** which was received along with soft copy of the award by the Central Government on 16.08.2024.

[No. Z-16025/04/2024-IR(M)-95]

DILIP KUMAR, Under Secy.

### ANNEXURE

#### IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 5<sup>th</sup> day of July, 2024

**INDUSTRIAL DISPUTE No. 22/2023**

Between:

Visakha Ukku Contract Karmika  
Sangham (INTUC)  
Steel plant Rehabilitation Centre  
Nadupuru Viskhapatnam,  
Andhra Pradesh-530044

.....Petitioner

AND

M/s Rashtriya Ispat Nigam Limited,  
Visakhapatnam Steel Plant,  
Visakhapatnam.

...Respondent

For the Petitioner : None

For the Respondent: None

**A W A R D**

The Government of India, Ministry of Labour by its order No.8/5/2023-B1 dated 04.08.2023 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of Visakhapatnam Steel Plant and their workmen. The reference is,

**SCHEDULE**

“Whether the action of the management of Rashtriya Ispat Nigam Limited, Visakhapatnam Steel Plant, Visakhapatnam in denying to consider for correction of date of birth of Sri N.Appala Naidu, Contract worker in their contract labour data base and there by superannuating the said contract worker is justified or not? If not, what relief the workman is entitled to?”

The reference is numbered in this Tribunal as I.D. No. 22/2023 and notices were issued to the parties concerned.

2. Petitioner did not file any claim statement and documents despite sufficient opportunity extended to him. It seems he don't want to prosecute his case. Therefore, in absence of any claim statement a 'No-Claim' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Shri Vinay Panghal, LDC corrected by me on this the 5<sup>th</sup> day of July, 2024.

IRFAN QAMAR, Presiding Officer

**Appendix of evidence**

Witnesses examined for the

Witnesses examined for the

Petitioner

Respondent

NIL

NIL

**Documents marked for the Petitioner**

NIL

**Documents marked for the Respondent**

NIL

नई दिल्ली, 16 अगस्त, 2024

का.आ. 1631.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स श्री सीमेंट लिमिटेड; कांटेक्टर जे. सी. के प्रबंधन के संबद्ध नियोजकों और श्री कर्मबीर नांदल के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, चंडीगढ़, पंचाट (रिफरेन्स न. 14/2018) को जैसा

कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.08.2024 को प्राप्त हुआ था।

[सं. जेड-16025/04/2024- आईआर(एम)-96]

दिलीप कुमार, अवर सचिव

New Delhi, the 16th August, 2024

**S.O. 1631.**—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Reference No. 14/2018**) of the **Central Government Industrial Tribunal cum Labour Court-2, Chandigarh** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s Shree Cement Limited; Contractor J.C. and Shri Karambir Nandal** which was received along with soft copy of the award by the Central Government on 16.08.2024.

[No. Z-16025/04/2024-IR(M)-96]

DILIP KUMAR, Under Secy.

### ANNEXURE

**In the Central Government Industrial Tribunal-cum-Labour Court-II, Chandigarh.**

**Present: Sh. Kamal Kant, Presiding Officer.**

ID No.14/2018

Registered on:-16.07.2018

Sh. Karambir Nandal S/o Sh. Rakesh, R/o Vill. Khaukrana, Tehsil & Distt. Panipat(Haryana), C/o Ajay Singh Rana Adv. Bhartia Mazdoor Sang, Lal Bati, Panipar.

.....Workman

Versus

1. M/s Shree Cement Ltd. Vill. Khukrana, P.O. Assan, Distt. Panipat.
2. Contractor J.C. M/s Shree Cement Ltd. Vill. Khukrana, P.O. Assan, Distt. Panipat.

....Respondents/Management

### AWARD

**Passed on:-01.08.2024**

1. The workman Karambir Nandal has directly filed this claim petition under Section 2-A of the Industrial Dispute Act 1947(hereinafter called the Act) for reinstatement in service with full back wages.
2. During the pendency of the proceedings before this Tribunal, learned AR for workman Sh. Sanjay has made a statement that he do not want to pursue the present reference and he withdraws the present reference which may be dismissed as withdrawn, which is recorded separately. Learned AR for respondent no.1 as well as learned AR for respondent no.2 have also made statement that they have no objection if the present reference is dismissed as withdrawn on the basis of the statement given by the learned AR of workman, which is recorded separately.
3. In view of the statement made by the learned AR for workman as well as no objection given by the learned ARs of respondents, the present claim petition deserves to be dismissed as withdrawn. Accordingly, the instant claim petition registered as ID No.14/2018 stands withdrawn and dismissed. Present reference is therefore dismissed. File after completion be consigned in the record room.
4. Let copy of this award be sent to Central Government for publication as required under Section 17 of the ID Act, 1947.

KAMAL KANT, Presiding Officer

नई दिल्ली, 16 अगस्त, 2024

**का.आ. 1632.**—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स श्री सीमेंट लिमिटेड; कांटेक्टर हवा सिंह के प्रबंधन के संबद्ध नियोजकों और श्री राम कुमार के बीच अनुबंध में



निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, चंडीगढ़, पंचाट (रिफरेन्स न.- 17/2018) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.08.2024 को प्राप्त हुआ था।

[सं. जेड-16025/04/2024- आईआर(एम)-97]

दिलीप कुमार, अवर सचिव

New Delhi, the 16th August, 2024

**S.O. 1632.**—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Reference No. 17/2018**) of the **Central Government Industrial Tribunal cum Labour Court-2, Chandigarh** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s Shree Cement Limited; Contractor Hawa Singh** and **Shri Ram Kumar** which was received along with soft copy of the award by the Central Government on 16.08.2024.

[No. Z-16025/04/2024-IR(M)-97]

DILIP KUMAR, Under Secy.

#### ANNEXURE

**In the Central Government Industrial Tribunal-cum-Labour Court-II, Chandigarh.**

**Present: Sh. Kamal Kant, Presiding Officer.**

ID No.17/2018

Registered on:-16.07.2018

Sh. Ram Kumar S/o Sh. Inder, R/o Vill. Khaukrana, Tehsil & Distt. Panipat(Haryana), C/o Ajay Singh Rana Adv. Bhartia Mazdoor Sang, Lal Bati, Panipar.

.....Workman

Versus

1. M/s Shree Cement Ltd. Vill. Khukrana, P.O. Assan, Distt. Panipat.
2. Contractor Hawa Singh, S/o Sh. Kalu Ram, R/o Vill. Khukrana, P.O. Assan, Distt. Panipat.

....Respondents/Management

#### AWARD

**Passed on:-01.08.2024**

1. The workman Ram Kumar has directly filed this claim petition under Section 2-A of the Industrial Dispute Act 1947(hereinafter called the Act) for reinstatement in service with full back wages.
2. During the pendency of the proceedings before this Tribunal, learned AR for workman Sh. Sanjay has made a statement that he do not want to pursue the present reference and he withdraws the present reference which may be dismissed as withdrawn, which is recorded separately. Learned AR for respondent no.1 as well as learned AR for respondent no.2 have also made statement that they have no objection if the present reference is dismissed as withdrawn on the basis of the statement given by the learned AR of workman, which is recorded separately.
3. In view of the statement made by the learned AR for workman as well as no objection given by the learned ARs of respondents, the present claim petition deserves to be dismissed as withdrawn. Accordingly, the instant claim petition registered as ID No.17/2018 stands withdrawn and dismissed. Present reference is therefore dismissed. File after completion be consigned in the record room.
4. Let copy of this award be sent to Central Government for publication as required under Section 17 of the ID Act, 1947.

KAMAL KANT, Presiding Officer

नई दिल्ली, 16 अगस्त, 2024

का.आ. 1633.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स श्री सीमेंट लिमिटेड; कंट्रैक्टर जे. सी. के प्रबंधन के संबद्ध नियोजकों और श्री कलियान सिंह के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, चंडीगढ़, पंचाट (रिफरेन्स नं.- 15/2018) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.08.2024 को प्राप्त हुआ था।

[सं. जेड-16025/04/2024- आईआर(एम)-98]

दिलीप कुमार, अवर सचिव

New Delhi, the 16th August, 2024

S.O. 1633.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Reference No. 15/2018**) of the **Central Government Industrial Tribunal cum Labour Court-2, Chandigarh** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s Shree Cement Limited; Contractor J.C. and Shri Kaliyan Singh** which was received along with soft copy of the award by the Central Government on 16.08.2024.

[No. Z-16025/04/2024-IR(M)-98]

DILIP KUMAR, Under Secy.

## ANNEXURE

In the Central Government Industrial Tribunal-cum-Labour Court-II, Chandigarh.

Present: Sh. Kamal Kant, Presiding Officer.

ID No.15/2018

Registered on:-16.07.2018

Sh. Kaliyan Singh S/o Sh. Udel Singh, R/o Vill. Bahadur Aligarh, U.P., C/o Ajay Singh Rana Adv. Bhartia Mazdoor Sang, Lal Bati, Panipat.

.....Workman

Versus

1. M/s Shree Cement Ltd. Vill. Khukrana, P.O. Assan, Distt. Panipat.
2. Contractor J.C. M/s Shree Cement Ltd. Vill. Khukrana, P.O. Assan, Distt. Panipat.

....Respondents/Management

## AWARD

Passed on:-01.08.2024

1. The workman Kaliyan Singh has directly filed this claim petition under Section 2-A of the Industrial Dispute Act 1947(hereinafter called the Act) for reinstatement in service with full back wages.
2. During the pendency of the proceedings before this Tribunal, learned AR for workman Sh. Sanjay has made a statement that he do not want to pursue the present reference and he withdraws the present reference which may be dismissed as withdrawn, which is recorded separately. Learned AR for respondent no.1 as well as learned AR for respondent no.2 have also made statement that they have no objection if the present reference is dismissed as withdrawn on the basis of the statement given by the learned AR of workman, which is recorded separately.
3. In view of the statement made by the learned AR for workman as well as no objection given by the learned ARs of respondents, the present claim petition deserves to be dismissed as withdrawn. Accordingly, the instant claim petition registered as ID No.15/2018 stands withdrawn and dismissed. Present reference is therefore dismissed. File after completion be consigned in the record room.
4. Let copy of this award be sent to Central Government for publication as required under Section 17 of the ID Act, 1947.

KAMAL KANT, Presiding Officer

नई दिल्ली, 16 अगस्त, 2024

का.आ. 1634.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स श्री सीमेंट लिमिटेड; कंट्रैक्टर हवा सिंह के प्रबंधन के संबद्ध नियोजकों और श्री राजबीर के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, चंडीगढ़, पंचाट (रिफरेन्स नं.- 16/2018) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.08.2024 को प्राप्त हुआ था।

[सं. जेड-16025/04/2024- आईआर(एम)-99]

दिलीप कुमार, अवसर सचिव

New Delhi, the 16th August, 2024

S.O. 1634.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Reference No. 16/2018**) of the **Central Government Industrial Tribunal cum Labour Court-2, Chandigarh** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s Shree Cement Limited; Contractor Hawa Singh and Shri Rajbir** which was received along with soft copy of the award by the Central Government on 16.08.2024.

[No. Z-16025/04/2024-IR(M)-99]

DILIP KUMAR, Under Secy.

#### ANNEXURE

**In the Central Government Industrial Tribunal-cum-Labour Court-II, Chandigarh.**

**Present: Sh. Kamal Kant, Presiding Officer.**

ID No.16/2018

Registered on:-16.07.2018

Sh. Rajbir S/o Sh. Inder, R/o Vill. Khaukrana, Tehsil & Distt. Panipat(Haryana), C/o Ajay Singh Rana Adv. Bhartia Mazdoor Sang, Lal Bati, Panipar.

.....Workman

Versus

1. M/s Shree Cement Ltd. Vill. Khukrana, P.O. Assan, Distt. Panipat.
2. Contractor Hawa Singh, S/o Sh. Kalu Ram, R/o Vill. Khukrana, P.O. Assan, Distt. Panipat.

....Respondents/Management

#### AWARD

**Passed on:-01.08.2024**

1. The workman Rajbir has directly filed this claim petition under Section 2-A of the Industrial Dispute Act 1947(hereinafter called the Act) for reinstatement in service with full back wages.
2. During the pendency of the proceedings before this Tribunal, learned AR for workman Sh. Sanjay has made a statement that he do not want to pursue the present reference and he withdraws the present reference which may be dismissed as withdrawn, which is recorded separately. Learned AR for respondent no.1 as well as learned AR for respondent no.2 have also made statement that they have no objection if the present reference is dismissed as withdrawn on the basis of the statement given by the learned AR of workman, which is recorded separately.
3. In view of the statement made by the learned AR for workman as well as no objection given by the learned ARs of respondents, the present claim petition deserves to be dismissed as withdrawn. Accordingly, the instant claim petition registered as ID No.16/2018 stands withdrawn and dismissed. Present reference is therefore dismissed. File after completion be consigned in the record room.

4. Let copy of this award be sent to Central Government for publication as required under Section 17 of the ID Act, 1947.

KAMAL KANT, Presiding Officer

नई दिल्ली, 16 अगस्त, 2024

का.आ. 1635.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स शाश सिक्योरिटी सर्विसेज; इंडियन ऑयल कॉर्पोरेशन लिमिटेड के प्रबंधन के संबद्ध नियोजकों और श्री गुरदीप सिंह के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, चंडीगढ़, पंचाट (रिफरेन्स न. 25/2016) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.08.2024 को प्राप्त हुआ था।

[सं. जेड-16025/04/2024- आईआर(एम)-100]

दिलीप कुमार, अवर सचिव

New Delhi, the 16th August, 2024

S.O. 1635.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Reference No. 25/2016**) of the **Central Government Industrial Tribunal cum Labour Court-2, Chandigarh** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s Shaash Security Services; Indian Oil Corporation Limited** and **Shri Gurdip Singh** which was received along with soft copy of the award by the Central Government on 16.08.2024.

[No. Z-16025/04/2024-IR(M)-100]

DILIP KUMAR, Under Secy.

#### ANNEXURE

#### Central Government Industrial Tribunal-Cum-Labour Court-II, Chandigarh.

Present: Sh. Kamal Kant, Presiding Officer.

ID No.25/2016

Registered on:-10.07.2016

Gurdip Singh, S/o Sh. Mohinder Singh, R/o House No.67/3, Shankar Colony, Village Jandli, Ambala City.

....

...Workman

#### Versus

1. M/s Shaash Security Services, Ambala Cantt C/o Fouji Property, Defence Colony, Sector-C, Kallerheri Road, Ambala Cantt. Through its Proprietor.

2. The Indian Oil Corporation Limited, Ambala Cantt through its Managing Director.

.....Respondents/Management

#### AWARD

**Passed On:-29.07.2024**

1. The workman Gurdip Singh has directly filed this claim petition under Section 2-A of the Industrial Dispute Act 1947(hereinafter called the Act) for his reinstatement in service with back wages along with all consequential benefits.

2. Claimant Gurdip Singh has stated in his claim petition that he is Ex-Army employee and was engaged by respondent no.1 as a Security Guard to serve respondent no.2. He worked as such continuously and without any break. On 31.01.2015, respondent no.1 asked him not to come on duty without any reason and without giving any termination order. The workman submitted an application dated 02.02.2015 to respondent no.2 and narrated the whole story. On 06.02.2015, the workman was handed over a transfer order from Ambala to Karnal. The services of the workman were already dispensed with by respondents on 31.03.2015 without assigning any reason in violation of the mandatory provisions of the ID Act, 1947 and respondents have not given any retrenchment notice nor any compensation. No enquiry was ever held before terminating the services of the workman. The post is still existing and after terminating the services of the workman, the respondents have engaged new individual on the aforesaid post

which is against the provisions of the ID Act, 1947. It is therefore, prayed that he be reinstated in service with back wages along with all consequential benefits in the interest of justice.

3. Respondent no.1 filed its written statement, alleging therein that the services of the workman were not satisfactory at Indian Oil Corporation, Ambala as respondent no.2 had reported many illegal activities of workman and which forced the respondent no.1 to transfer him to Karnal. Respondent no.2 was not satisfied with the services of the workman. The workman was transferred to Karnal after given notice through registered post to join at Karnal but he failed and abandoned his services as he was no longer interested in working outside Ambala Cantt. He was a contract labourer and had no vested right to continue to work with the same principal employer and his services were liable to be engaged as and when the principal employer did not require his services or was not satisfied with the conduct of such contract labour. The provisions of Section 25-F of the Industrial Disputes Act, 1947 do not apply to the present case as the services of the workman were never terminated but he himself abandoned his job. The question of reinstatement with continuity of services and back wages does not arise as the workman being a contract labour had himself abandoned his services and served the demand notice after about 10 months from the date of his transfer from Ambala to Karnal at which place he never reported for duty. In view of the above submissions reference may be dismissed.

4. Respondent no.2 filed its written statement, alleging therein that complete supervision and administrative control over the applicant was exercised by respondent no.1. It is specifically and categorically denied that the workman performed his services to the satisfaction of respondent no.2. The workman was employed by respondent no.1 who transferred him from Ambala Cantt. to Karnal which he refused to accept and did not join at the new place of posting. The respondent-corporation has nothing to do with the dispute in question. It is denied that the workman ever approached the respondent-corporation on the issue of his transfer or on any other matter. In view of above submissions, it is prayed that the claim of the workman be dismissed.

5. In support of his case, the workman Gurdip Singh has filed its affidavit in evidence as Ex.WW1 and has been cross-examined by both the respondents.

6. Respondent no.1(i.e. Shaash Security Services, Ambala Cantt.) has filed affidavit of Colonel Jai Parkash Sharma, who filed his affidavit in evidence as Ex.RW/1 and Respondent no.2(i.e. Indian Oil Corporation) has filed the affidavit of Sanjay Kumar Senior Manager(ER), who filed his affidavit in evidence as Ex.RW/2.

7. It is pertinent to mention here that opportunity of workman to cross-examine the witness of respondent no.1 was closed by this Tribunal by order vide order dated 18.03.2021. The opportunity of workman to cross-examine the witness of respondent no.2 was also closed by this Tribunal by order vide order dated 16.09.2021.

8. I have heard the learned AR for respondent no.1 and learned counsel of respondent no.2 and have also gone through the evidence given by the workman as well as evidence adduced by the respondents.

9. The burden of proof was on the workman that his termination was against the provision of Section 25-F of the Act as no notice or retrenchment-compensation was given to the applicant prior to his termination.

10. On the other hand, it is the case of respondents that he was not working satisfactory at Ambala therefore, he was transferred from Ambala Cantt. to Karnal but he did not report there and abandoned the services. Therefore, no case is made out and reference be dismissed.

11. It is added here that perusal of cross-examination of workman made it ample clear that he was not terminated from his services rather he was transferred from Ambala to Karnal vide order dated 31.01.2015 but he did not join there. Workman has also admitted in his cross-examination that he was given appointment by respondent no.1 and wages were also paid by respondent no.1. He had not joined at Karnal in terms of transfer letter by respondent no.1. He has not joined at Karnal because he was orally terminated on 31.01.2015. He has also admitted that respondent no.1 had again issued another letter dated 11.02.2015 for joining at Karnal office upto 20.02.2015. From the cross-examination of workman, it is clear that he was transferred from Ambala Cantt. to Karnal where he did not join. Thus, he was never terminated rather he abandoned from services. Thus, compliance of Section 25-F is not necessary. Hence, due to his own lapses workman cannot be allowed to take benefits of his own wrongs. Thus, reference is liable to be dismissed.

12. In view of the above discussion, this Tribunal is of the firm view that there is no merit in the claim and reference is answered against the workman.

13. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

KAMAL KANT, Presiding Officer

नई दिल्ली, 19 अगस्त, 2024

**का.आ. 1636.—औद्योगिक** विवाद अधिनियम 1947 (1947 का 14 ) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ महाराष्ट्र के प्रबंधक, संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय औरंगाबाद के पंचाट (62/2018) प्रकाशित करती है।

[सं. एल-39025/01/2024-आई आर (बी-II)-35]

सलोनी, उप निदेशक

New Delhi, the 19th August, 2024

**S.O. 1636.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.62/2018) of the *Indus.Tribunal-cum-Labour Court Aurangabad* as shown in the Annexure, in the industrial dispute between the management of Bank of Maharashtra and their workmen.

[No. L-39025/01/2024- IR(B-II) -35]

SALONI, Dy. Director

#### ANNEXURE

Received on	01-12-2018
Registered on	03-12-2018
Decided on	20-06-2024
Duration	Y M D
	05 06 19

Exh.O:

#### IN THE LABOUR COURT-1 AT AURANGABAD.

(Presided over by Smt. M.R.Kolhar)

REFERENCE (IDA) NO.62/2018

(CNR: MHLC200005682018)

#### Between

The Zonal Manager,  
Bank of Maharashtra  
Mahabank Bhawan, C-3, N-1,  
Town Centre, CIDCO,  
Aurangabad 431003

First party

*And*

Shri. Datta Bhagwan Dhekale,  
Post. Ghansavangi,  
Tah. Ghansavangi, Dist. Jalna  
Jalna (Maharashtra)

Second Party

**Claim:** Reference U/s. 10 of sub section (2A) and sub section  
01 of (d) of the Industrial Disputes Act, 1947.

**Advocates:** Shri Arvind R. Joshi, for first party.  
Shri. Vishal V. Udhan, for second party

### AWARD

(Delivered on 20/06/2024)

1. The present Reference is referred to this Court for its adjudication in between above-mentioned parties by the Ministry of labour, Government of India, New Delhi by its order dtd. 13-11-2028.

2. The brief facts of the case are as under:

The second party worked with first party as a Sweeper since 1992 with daily wages of Rs.25/-. The second party worked for 240 days in each year during entire service tenure of 19 years. The first party has not issued show cause notice or memo or charge-sheet. The first party has orally terminated the services of second party w.e.f. 15.07.2011. It is contended by the second party that the work done by him is still available, junior to him still working and without publishing seniority list by the first party, the services of second party illegally terminated by the party. The second party is only one who is earning member in his family except service, he has no other source of income. Therefore, the second party requested for continuity of service, back wages and compensation.

3. The first party filed its Written Statement vide Exh.C-4 and thereby denied that second party worked with it since 1992 and getting Rs. 25/- per day. The first party denied that the second party rendered uninterrupted service of 19 years and completed 240 days in each year. It is denied that the services of second party orally terminated by the first party on 15-07-2011. The first party also denied that the work which he was doing is still available and juniors are still working with Bank. The first party submitted that he approached to the Court after 07 years from his alleged termination and second party has not filed his Statement of Claim for 05 years. Therefore, the second party is not entitled for any relief. Hence, Reference may kindly be rejected.

4. Considering the rival submissions of both parties, I have framed following issues vide Exh.O:02, same are re-produced below along with my findings thereon for the reasons to follow:

Sr.No.	Issues	Findings
1.	Whether Reference is maintainable ?	In the negative
2.	Whether the second party proves that he was illegally terminated from services w.e.f. 15-07-2011 ?	Redundant
3.	Whether the second party proves that he is entitled for continuity of service, back wages and compensation ?	Redundant
4.	What order ?	As per final order.

### Reasons

#### As to Issue No. 01 to 3:-

5. Meanwhile, during the pendency of the said Reference, the first party has filed Application vide Exh.C-6 and thereby contended that the present Reference is in respect of alleged oral termination of the second party dtd. 15-07-2011, whereas, the Second Party has filed Complaint ULP No. 18/2014 before the Labour Court at Jalna challenging his termination dtd. 15.07.2011. It is further contended that said Complaint is dismissed and decided on merits on 31.03.2015, therefore, the Reference is hit by the principle of res-judicata. The first party prayed for rejection of the said Reference as it is barred by res-judicata.

6. In respect of application filed by the first party vide Exh.C-6, the second party filed its Say vide Exh.U-18 and thereby contended that this matter is not hit by the principle of res-judicata, therefore, said application may be rejected.

7. Perused the application. Heard arguments of both parties. It is seen from the record that the Second Party has filed Complaint ULP No. 18/2014 before the Labour Court at Jalna and thereby challenged his termination dtd. 15.07.2011. It is also seen that the Complaint ULP filed by the second party also dismissed by the Labour Court,

Jalna. Thereafter, the second party approached to Appropriate Govt and raised Industrial Disputes. The present Reference is forwarded to this Court for its adjudication by the Central Government by its order dtd. 13-11-2018. It means, the second party after Judgment delivered in Complaint ULP No.18/2014, approached to Appropriate Government for raising his grievance. The Central Govt. has referred this Reference for adjudication. As per Schedule of Reference, this Court has to decide the following dispute:

1. Whether the action of the management of Bank of Maharashtra, Ghansawangi Branch, Jalna, Maharashtra in removing the services of Shri. Datta Bhagwan Dhekale w.e.f. 15.07.2011 allegedly working from 1992 without complying the provisions of 25-F of I.D.Act, 1947 is justified, legal and proper ? If yes, the relief entitled thereto:
2. Whether the claim of Shri. Datta Bhagwan Dhekale for permanency/regularisation with continuity of service and full back wages is justified, legal and proper ? If yes, the relief entitled thereto.
8. From the points of disputes, it is revealed that the second party by this Reference again agitating his grievance of removing him from service that too without complying the provisions of 25-F of I.D.Act, 1947 by an order dtd. 15.07.2011. Upon perusal of Judgment & Order delivered by the Labour Court Jalna it is reveal that said grievance is already decided on merits in Complaint ULP No. 18/2014 which was filed by complainant and said Complaint was dismissed by the Labour Court at Jalna. In view of this, it is crystal clear that this is nothing but res-judicata. Section 59 of the MRTU & PULP Act, 1971 reads as under:

**Section: 59. Bar of proceedings under Bombay or Central Act:** If any proceeding in respect of any matter falling within the purview of this Act is instituted under this Act, then no proceeding shall at any time be entertained by any authority in respect of that matter under the Central Act or, as the case may be, the Bombay Act; and if any proceedings shall at any time be entertained by the Industrial or Labour Court under this Act.

With these observations, issue no.01 is answered in negative and issues no. 02 & 03 becomes redundant and to answer issue no.04, I proceed to pass following order:

#### O R D E R

1. The present Reference is answered in negative, as it is hit by the principle of res-judicata.
2. The copy of the Award be sent to the Ministry of Labour, Government of India, New Delhi for its publication.
3. No order as to costs.

Smt. M.R.KOLHAR, Presiding Officer & Judge,

Date : 11/06/2024.

नई दिल्ली, 19 अगस्त, 2024

**का.आ. 1637.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14 ) की धारा 17 के अनुसरण में केन्द्रीय सरकार आईसीआईसीआई बैंक लिमिटेड के प्रबंधन, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (32/2011) प्रकाशित करती है।**

[सं. एल-12012/33/2011-आई आर (बी-1)]

सलोनी, उप निदेशक

New Delhi, the 19th August, 2024

**S.O. 1637.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.32/2011) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of ICICI Bank Ltd. their workmen.

[No. L-12012/33/11- IR(B-1)]

SALONI, Dy. Director



**ANNEXURE**  
**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT**  
**HYDERABAD**

Present: **Sri IRFAN QAMAR**  
 Presiding Officer

Dated the 27<sup>th</sup> day of May, 2024

**INDUSTRIAL DISPUTE No. 32/2011**

Between:

Sri V. Rammohan,  
 R/o Flat No-2, Block -20,  
 MIG-II, Baghlingampalli,

Hyderabad.

...

.. Petitioner

AND

The General Manager,  
 ICICI Bank Ltd., Global Trade Services Unit,  
 1<sup>st</sup> Floor, Empire Complex, Senapathi Bapat Marg,  
 Lower Parel,  
 Mumbai – 400013.

...

. Respondent

Appearances:

For the Petitioner : Sri Abid Hussain, Advocate

For the Respondent: M/s. C R Sridharan & Associates, Advocates

**A W A R D**

The Government of India, Ministry of Labour by its order No. L- 12012/33/2011-IR(B-I) dated 5.7.2011 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of ICICI Bank Ltd., and their workman. The reference is,

**SCHEDULE**

“Whether the action of the management of ICICI Bank Ltd., Mumbai in termination the services of Shri V. Rammohan w.e.f. 26.4.2010, is legal and justified? To what relief the workman is entitled?”

The reference is numbered in this Tribunal as I.D. No. 32/2011. Notices were issued to the parties concerned. Earlier Petitioner has also raised dispute under Sec.2A(2) for same cause of action which was numbered as LC No.3/2011. After receipt of the present ID No.32/2011, Petitioner filed memo withdrawing the petition filed under Sec.2A(2) i.e., LC No.3/2011 and the same was permitted to withdraw as not pressed and same was closed.

**2. The averments made in the claim statement are as follows:**

It is submitted that the Petitioner was appointed as officer in Respondent organization and placed in Customer Service Branch Banking, Banjara Hills, Hyderabad through appointment No. IBOG/FY07/N/I/40 dated 7<sup>th</sup> June 2007. As per appointment orders the Petitioner joined his duty on 5<sup>th</sup> July 2007 on Monthly of Rs. 14,600/- and Respondent issued Employee ID bearing No.162823. Later, the Petitioner was transferred to Global Trade Services Unit (GTSU), Chintal Basti, Khairatabad. The Petitioner's nature of work in the above Bank is only making work of export and import realization, inland bills for collection, exchange earned on foreign currency, real time gross payment and crediting and debiting of the customers account on instructions of superior officers. The Petitioner has no power or function to take decision and work independently. He worked under the instructions of the supervisors of the Bank. His services have been regularized on 5.7.2008. It is submitted that from the date of appointment of the Petitioner has been discharging his duties to the utmost satisfaction of the superiors. It is submitted that the Petitioner has gone on medical leave from 5.10.2009 to 16.1.2010 due to severe back-ache, with prior intimation and where there was no objection from the office (Either HR or Chief Manager). During his medical leave the Chief Manager

made a phone call to the Petitioner and asked him to produce the original medical certificate, so that he said, he can forward it to the HR. As per his instruction the Petitioner sent the original medical certificate to him through the courier service on 19.10.2009. The Petitioner submits that after his medical leave he joined the duty on 18.1.2010. After five days, the Chief Manager called the Petitioner and instructed him to go and meet the HR at Begumpet on 27.1.2010 and not to attend the duty until approval of the medical leave from HR. As per his instructions, the Petitioner went to the HR Begumpet on 27.1.2010, but she was busy on that day, next day he met the HR. She told him that after getting appointment from the Bank panel Doctor, he has to attend before the Doctor with relevant medical certificates produced by him, the Panel Doctor will examine the same. On 4.2.2010, the Petitioner received a phone call from HR Begumpet and she asked him to forward the scan copies of his medical certificates to the mail-ID of Mr.Kiran kumar, HR Gachibowli. As per her instructions he did the same immediately. Thereafter the Petitioner was in touch with Mr. Kirankumar HR and HR Begumpet regularly. After the Petitioner's severe follow up through the mails, phone calls and personal requests, nearly after one month on 3.3.2010 the Petitioner personally met the HR Begumpet and requested to solve his problem then the HR directed the Petitioner to go and attend before Panel Doctor at Gachibowli. Immediately, the Petitioner attended before the Panel Doctor. The Panel Doctor examined him and said that she will send the examination report to HR. The Petitioner informed the same to the Chief Manager GTSU Chintalbasti. Thereafter the Chief Manager directed the Petitioner through phone call on 4.3.2010 at 11-00am, to attend his duties and assured that he will talk to HR for unblocking of ID immediately the Petitioner joined his duties on same day. It is submitted that again after ten days, the chief manager GTSU Chintalbasti instructed the Petitioner to report to HR at Begumpet. As per his instructions the Petitioner went and met HR, she told him not to attend his duties at Chintalbasthi branch and do not make further follow-ups until receiving a call from the office. The Petitioner waited for some period, but there is no response from the office in solving his issue and not taken steps to allowing him to perform his regular duties. It is submitted that due to unemployment from last six months, the Petitioner suffered with lot of financial and other boarding problems. In spite of his several requests to solve the problem and allow him to perform his duties, the Respondent has delayed in taking a decision to approval of medical leave, activation of id and allowing him to perform his regular duties. Finally the Petitioner put a mail on 6.4.2010 to CEO of ICICI Bank, HR head Mr.Ramkumar Mumbai, and requested to take steps to solve his issue. It is submitted that thereafter the Petitioner got a call on 8.4.2010 from HR Begumpet, to come and join the office next day and she also informed him that, due to some technical problem it will take 2-3 days time to unblock his ID. As per the call from HR, the Petitioner again came and joined into his regular duties on 9.4.2010. Again after three days, the Petitioner got an instruction from his Chief Manager that he should go and meet Mr.Phanikumar who is AGM at Banjara Hills. It is submitted that the Petitioner met Mr.Phanikumar the same day around 6 pm and at that time the Chief Manager, GTSU Chintal Basthi, ER-Manager Hyderabad were also there. They have advised the Petitioner to give resignation to his job and told that otherwise he has to face the disciplinary action and they threatened saying the words that 'if we take disciplinary action you can't get job anywhere in the world and if you failed to resign your job, there will be no future to you in your life'. It is submitted that three months time elapsed, in spite of taking action to approve the Petitioner's medical leave and Respondent has delayed in taking decision in the issue and objected Petitioner's regular duties time and again which is nothing but harassment. It is submitted that in this juncture the Petitioner made a representation to the Respondent on 15.4.2010 to approve his medical leave and allow him regularly to his regular duties and as well as he made a representation to Assistant Commissioner of Labour Hyderabad on the same day i.e., 15.4.2010. It is submitted that suddenly the Respondent has terminated the services of the Petitioner on 26.4.2010 by his orders dated 19.4.2010 without assigning any reasons and without following the procedure laid down under the law. It is submitted that no employer shall without a reasonable cause terminate the service of an employee who has been in his employment continuously for period of not less than 6 months, without giving such an employee at least one Month notice in writing or notice pay. In lieu there and in respect of an employee who has been in his employment continuously for a period of not less than 1 Year services continuously amounting to 15 days average wage for each year of continuous employment should be given by the employer. In the present case the Petitioner is a regular employee, there was no notice issued by the opposite party before terminating the services of the Petitioner herein. Therefore, it is a clear violation of provisions mentioned in the Act and the termination is ex-facie illegal. It is submitted that before terminating the services of the Petitioner, no charge sheet was issued nor any enquiry is conducted against the Petitioner without any reasonable cause, the Petitioner has been terminated from his services. The Petitioner was drawing salary of Rs.15461.08/- at the termination of his services. The Petitioner herein worked till the end of April 2010. But six months' salary from November, 2009 to April, 2010 was not paid to the Petitioner. It is Submitted that the Petitioner made a representation to The Assistant Labour Commissioner Central, Hyderabad on 24.12.2010 to take action against illegal termination of the Petitioner. The conciliation proceedings held on 23-2-2011 before the Asst. Labour Commissioner (central), but failed and the Respondent did not agree to set aside the illegal termination. It is therefore prayed to hold the action of opposite party in terminating the services of the Petitioner on 26.4.2010 by his orders dated 19.4.2010 and not paying the salary of the Petitioner from November, 2009 to April, 2010 as illegal, arbitrary and unjust and consequently direct the opposite party reinstate the Petitioner into service with continuity of service with full back wages and with all other attendant benefits etc..

### 3. **Respondent filed counter denying the averments of the Petitioner as under:**

The present ID, as raised by the Petitioner, is not maintainable in law, particularly the provisions of the Industrial Disputes Act, 1947 because the Petitioner was employed with the Respondent Bank as an Officer and was discharging managerial and administrative functions and in addition he was admittedly drawing salary in excess of Rs.10,000/- per month (i.e., Rs.15,461/- pm). Hence, the Petitioner was not a 'workman' within the meaning of Section 2(s) of the ID Act. The Petitioner's actual day-to-day duties involved taking decisions with regard to his portfolio, for which, he was managerially and administratively responsible. The brief details of the portfolio handled by the Petitioner are:- Capturing of Correct & Valid information into i-core from the available documents; Checking for the correct data from the Bills received (customer collection bills) and capturing the same into our core system; Preparation and validation of RTGS instructions by coordinating with team members; and Controlling and organizing the training needs to new joinees. The above duties are administrative functions distinguishable from manual, skilled, semi-skilled, unskilled, technical, operational or clerical duties, which fall within the meaning of Section 2(s) of the ID Act. The Respondent Bank is advised to submit that the Hon'ble AP High Court in the case of GIC Housing Finance Ltd. Vs. Presiding Officer, Labour Court-, Hyderabad reported in 2011 (3) ALD 123, held that a person who discharges administrative functions need not be at the helm of affairs of organization so as to be excluded from the purview of the definition of the 'workman' under Section 2(s) of the ID Act and that the expression 'administrative capacity' has to be understood in contradistinction to the functions, which a workman is required to discharge at the ground level and upon instructions of the superiors. The ratio of the above judgment squarely applies to the case on hand and the Petitioner, who used to discharge the administrative functions, falls within the exclusion clauses (ii) and/or (iv) of Section 2(s) of the ID Act. Hence, the very ID raised by the Petitioner is wholly misconceived and is liable to be rejected at the threshold itself. The Respondent Bank is further advised to submit that since the issue as to the status of the Petitioner as an Officer goes to the very root of the maintainability of the ID and the jurisdiction of this Hon'ble Tribunal. Respondent Bank further submits that the termination of the services of the Petitioner is fully in accordance with the terms and conditions of his employment with the bank as enumerated in the Letter of Appointment dated June 07, 2007, duly accepted by him while joining the services of the bank, based on which he has been in the services. There is no record to show that the Petitioner has ever raised any point of dissent on such employment terms governing his services in the bank all these days. Having accepted such employment terms which provides for separation of services the Petitioner is now stopped from making any issue on action of the Respondent bank in terms of such agreed employment terms. It is submitted that because of his habitual unauthorized absence from duties, utterly disregarding his job profile, which demands regularity and punctuality in attendance as an Officer of the Respondent Bank. Hence, it is submitted that the termination of the services of the Petitioner is both legal and justified and it is not liable to be interfered with by this Tribunal. The Respondent bank, has acted bonafide while doing so, in adherence to the employment terms applicable to the Petitioner. The Respondent is a commercial Bank and it is a 'Banking Company' within the meaning of the Banking Regulation Act, 1949 and its one of the Scheduled Bank under the Reserve Bank of India Act, 1934. The Registered Office of the Respondent Bank is situated at "Landmark", Race Course Circle, Vadodara - 390 007, Gujarat and its Corporate Office is situated at "ICICI Bank Towers", Bandra-Kurla Complex, Mumbai 400 051. The Respondent Bank has its Branches across India and abroad and one of its Branches called "Global Trade Services Unit" (GTSU) was situated on 3 Floor, Mohd. Ilayas Khan Estate, Road No.1, Banjara Hills, Hyderabad - 500 034, where the Petitioner was employed as an Officer at the time of termination of his services. It is needless to submit that as an Officer of the Respondent Bank, holding a job profile which demands regularity and punctuality in attendance, the Petitioner was expected not to absent from duties, more particularly without intimation or sanction of leave. However, the Petitioner disregarded his assigned portfolio and was in the habit of unauthorisedly absenting from duties frequently and when the Respondent Bank noticed that the Petitioner was indulging in habitual absenteeism without valid or plausible reasons, in the interests of discipline in the Respondent Bank, it was constrained to terminate the services of the Petitioner vide orders dated 19/04/2010 in accordance with the terms and conditions of his appointment, as enumerated in the Appointment Letter dated 07/07/2007. It is submitted that the Respondent Bank has credited 3 months' salary i.e., Rs.49,383/- of the Petitioner into the Savings Bank Account No.007501538059 in July, 2010. Hence, the Respondent Bank submits that the Petitioner is precluded from raising the ID or any other issue against the Respondent Bank. It is submitted that the Petitioner has suppressed the factum of receipt of the notice period salary of Rs.49,383/- before this Hon'ble Tribunal and hence, he is also guilty of suppression of material facts. It is submitted that Respondent bank has acted in terms of agreed employment terms applicable to the Petitioner. It is needless to submit that frequent unauthorized absence of a responsible Officer of the Bank hampers the functions of the Department in which he was employed. The unauthorized absenteeism of the Petitioner between August, 2009 and April, 2010 was/is as follows:

Month   Year	No. of days unauthorized absence
1) August, 2009	12 days

2) September, 2009	4 days
3) October, 2009	23 days
4) November, 2009	24 days
5) December, 2009	25 days
6) January, 2010	24 days
7) February, 2010	23 days
8) March, 2010	26 days
9) April, 2010	19 days
<b>Total:</b>	<b>180 days</b>

It is submitted that after having waited for more than 6 months hoping that the Petitioner would mend his ways and as the Petitioner did not show any improvement in his attendance, the Respondent Bank had decided to terminate the services of the Petitioner, which is both legal and valid. It is submitted that when the Respondent Bank received notice dated 04/02/2011 from the Asst. Commissioner of Labour (Central), Hyderabad, enclosing a copy of the purported representation dated 24/12/2010 of the Petitioner, one of its Managers attended the Conciliation Meetings convened by the said Conciliation Officer on 04/02/2011 and 23/02/2011 and submitted Letter dated 23/02/2011, putting forth the stand of the Respondent Bank. It is submitted that the issue did not get resolved before the Conciliation Officer and accordingly, the Conciliation Officer has submitted a Failure Report dated 15/03/2011. It is submitted that the Petitioner was appointed as Officer in the Respondent Bank, it is incorrect and false to state that his nature of work was only making export and import realization, inland bills for collection, exchange earned on foreign currency, real time gross payment, crediting and debiting of the customers' accounts on the instructions of superior Officers and that he had no power or function to take decision or work independently and was under the instructions of the "Supervisors" of the Bank. It is further denied that since the date of appointment, the Petitioner has been discharging his duties to the utmost satisfaction of his superiors. It is categorically denied that the Petitioner has gone on medical leave from 05/10/2009 to 16/01/2010, much less with prior intimation and that there was no objection from the Respondent Bank. Petitioner has never applied for sick leave before absents from duties, nor did he intimate about the alleged sickness to any of his superiors in the Respondent Bank. It is also denied that during the alleged medical leave, the Chief Manager of the Respondent Bank advised the Petitioner to produce the original Medical Certificate. Respondent Bank hereby denies the allegations that the Petitioner was not allowed to perform duties, that his alleged medical leave was not approved despite meeting various Managers of the Respondent Bank, that he was advised and threatened to tender resignation in the interests of his future, that the Respondent Bank has delayed taking decision on the Petitioner's alleged medical leave and objected to the Petitioner's regular duties to harass him, etc. All the above allegations are imaginary and invented only for the purpose of the present ID. It is further submitted that the termination of the services of the Petitioner is fully in accordance with the terms and conditions of his employment with the Respondent Bank and the relevant clause in the Letter of Appointment dated 07/07/2007 reads as follows:

*"After confirmation, your services would be liable to be terminated by the Bank, by giving ninety days' notice or on payment of an amount equivalent to ninety days' gross salary in lieu of the notice period."*

Indisputably, the Respondent Bank has paid Rs.49,383/- to the Petitioner representing three months' gross salary as per the aforesaid clause and the said amount was credited into the SB Account of the Petitioner in July, 2010. Hence, the allegation that the Respondent has suddenly terminated the services of the Petitioner without following the procedure laid down under the law is misconceived, apart from being incongruous. It is incorrect that six months' salary from November, 2009 to April, 2010 was not paid to the Petitioner and that the Petitioner's services have been terminated without any reasonable cause. It is submitted that as the Petitioner was employed in the position of Managerial and Administrative capacity, the question of issuing charge-sheet or conducting any enquiry does not arise, when his separation was as per employment terms accepted by and applicable to him from the date of his joining the services of the bank. It is submitted that Petitioner is not entitled to any relief from this Hon'ble Tribunal, much less the relief of reinstatement, etc.. It is submitted that on account of the continued unauthorized absence of the Petitioner since August, 2009, the Respondent Bank has lost confidence in the Petitioner, particularly because the Petitioner did not mend his ways despite the opportunities given by the Respondent Bank. Hence, prayed to dismiss the ID with exemplary costs.

4. Heard arguments of Learned Counsels for both the parties as well as perused written arguments.

5. **On the basis of rival contentions and pleadings of both the parties, following issues emerge for determination:-**

- I. Whether the Petitioner was employed with the Respondent bank as an officer and was it discharging managerial and administrative functions? Hence not covered under the definition of Workman within the scope of section 2(s) of the ID Act? If yes, its effects?
- II. Whether the action of the responding bank in terminating the services of the Petitioner vide orders dated 19.4.2010 is legal and justified?
- II. To what relief the Petitioner is entitled?

#### **Findings:-**

6. **Point No.I:** Respondent has contended that the present petition filed by the Petitioner is not maintainable under the ID Act because the Petitioner employed with the responded bank as an Officer, was discharging managerial and administrative functions. Admittedly, he was drawing salary in excess of Rs.10,000/- i.e., Rs.15,461/-. Hence, the Petitioner was not covered under the definition of the Workman as provided under the Section 2 (s) of the Industrial Disputes Act. Therefore, on the grounds, that he was getting in excess of Rs.10000/- salary and his nature of job performed by the Petitioner, with regard to his portfolio, he was discharging managerially and administratively responsibility. The brief details of the portfolio handled by the Petitioner are as under:-

“\*Capturing of Correct & Valid information into i-core from the available documents; \*Checking for the correct data from the Bills received (customer collection bills) and capturing the same into our core system;

\*Preparation and validation of RTGS instructions by coordinating with team members;

\*and Controlling and organizing the training needs to new joiners.”

Respondent also contended that aforesaid duties are of administrative nature functions distinguishable from manual, skilled, semi skilled, unskilled, technical, operational and clerical duties, which fall within the meaning of the Section 2 (s) of the ID Act. Respondent to support his contention has relied upon the decision of Hon’ble High Court of AP in the case of **GIC Housing Finance Ltd.,vs. Presiding Officer, Labour Court-I, Hyderabad reported in 2011(3) ALD 123**, wherein Hon’ble Apex Court have held that a person who discharges administrative functions need not be at the helm of affairs of organization so as to be excluded from the purview of the definition of the ‘workman’ under Sec.2(s) of the I.D. Act, 1947 and the expression, ‘administrative capacity’ can be understood in contradistinction to the functions which a workman is required to discharge at the ground level and upon instructions of the superiors. Respondent contended that the ratio of the above judgement squarely applies to the case on hand and the Petitioner who used to discharge administrative functions falls within the exclusion clauses (iii) and/or (iv) of Section 2(s) of the ID Act. Hence this very industrial dispute raised by the Petitioner is wholly misconceived and is liable to be rejected at the threshold itself. Further, Respondent contended that the issue of jurisdiction of the Tribunal be taken as a primary issue, so as to avoid proceedings of this tribunal. Further, Respondent in support of his contention has examined witness MW1 who has corroborated the contention made by Respondent in this regard.

7. Respondent has also relied upon the decisions of Hon’ble Supreme Court which are being discussed as below:-

**In the case of H. Rama Murthy Vs. K.R.D. Technologies Ltd., 2009 (1) ALD page 39, wherein Hon’ble High Court of A.P. have held:-**

*“Workman -Person employed in managerial or administrative capacity - Cannot be treated as workman, irrespective of his emoluments-Appointment of Petitioner as supervisor - Petitioner, since described himself as supervisor and admitted that salary exceeds Rs. 16000 p.m., heavy burden rested upon him to prove that he does not Come within exception of clause (iv) of Section 2(s) -Pleadings and evidence of Petitioner showing that he was discharging supervisory functions - His basic function was to supervise civil works -Conclusion arrived at by Labour Court that Petitioner is not a workman within meaning of Section 2(s) of Act, justified - Finding supported by cogent reasons and undisputed evidence - Needs no interference Writ petition dismissed.”*

**Further, Hon’ble High Court of Mumbai in the case of Standard Chartered Bank Vs. Vandana Joshi and another,1010(1) MHLJ have held:-**

*“10. These duties upon which there is absolutely no dispute or caveat would belie the contention of the first Respondent that she was doing work predominantly of a clerical nature. Section 2(s) of the Industrial Disputes Act, 1947 defines the expression "workman" to mean any person "employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward". A Constitution Bench of the Supreme Court in HR. Adyanthaya vs. Sandoz (India) Ltd., 1994() CLR 552 held that in order that a person can be designated as a workman under section 2(s) he she must be employed to do work which falls within one of the stipulated categories viz. manual, unskilled, skilled, technical, operational, clerical or supervisory other words, it is not enough that a person is not covered by either of the four exceptions to the definition. It is now also a well settled principle of law that the burden lies on the person who asserts the status of a workman under Section 2(s) to establish with*

*reference to the dominant nature of his / her duties that the work which is performed falls within one of the stipulated categories in section 2(s). Mukesh K. Tripathi vs. Senior Divisional Manager, para 37 and Ganga Kisan Sahkari Chini Mills Ltd. vs. Jaivir Singh. 2007(1) LIC 2004(III) CLR S34 at CLR 840 at para 9.)*

*11. The question as to what constitutes work of nature has been dealt with in the judgment of the Supreme Court in the Management Sonapat Co-operative Sugar Mills Ltd. vs. Ajit Singh. 2005 (1) CLR 66. Justice S. B. Sinha speaking for a Bench of two learned Judges of the Supreme Court held thus:*

*"A person who performs one or the other jobs mentioned in the definition aforementioned provisions only would come within the purview of definition of workman. The job of a clerk ordinarily implies stereotype work without power of control or dignity or initiative or creativeness. The question as to whether the employee has been performing a clerical work or not is required to be determined upon arriving at a finding as regard the dominant nature thereof. With a view to give effect to the expression to do "any manual, unskilled, skilled, technical, operational, clerical or supervisory work", the job of the concerned employee must fall within one or the other category thereof. It would, therefore, not be correct to contend that merely because the employee had not been performing any managerial or supervisory duties, ipso facto he would be a workman."*

*18. The fact that in an organizational structure the employee, in the course of the decision making process, is subject to checks and balances is not a matter which would establish that she/he is a workman within the meaning of section 2(s). Modern forms of business in corporate organizations put into place a carefully crafted process of checks and balances. Rarely, if ever, would an employee have authoritarian control over business decisions. Employees are made subject to checks and balances both at the lateral and vertical level. Managerial decisions are subject to verification and approval. The fact that decisions of an employee are subject to verification or subject to a system of controls and balances does not establish that the employee is a workman within the meaning of section 2(s). Managers do not become workmen because their decisions are structured by processes and approvals. Absolute autonomy is not the norm in managerial decision making. Nor does the law insist on absolute discretion or absolute autonomy for a person to be a manager. Basically the answer to the question must depend upon the dominant nature of the duties and responsibilities."*

8. On the other hand, Learned Counsel for the Petitioner has submitted that Petitioner was appointed as an officer in the Respondent Bank and was placed in Customer Service branch, Banjara Hills, Hyderabad through appointment letter orders dated 7<sup>th</sup> June 2007 and Petitioner has joined his duties on 5<sup>th</sup> July 2007 on a monthly salary of Rs.14,600/- per month. Further, Petitioner submits that the nature of work, Petitioner's job was purely Clerical, i.e., making work of export and import to realization, inland bills for collection, exchange earned on foreign currency, real time gross payment and crediting and debiting of the customers account on instructions of superior officers. Further, Petitioner submits that he has no power or function to take decision and work independently. He has worked under the instructions of the supervisors of the bank. Since from the date of appointment of the Petitioner, he has been discharging his duties to utmost satisfaction of the superiors.

9. In view of the submissions made by the Learned Counsel for both the parties, perused the record. Petitioner has filed in documentary evidence, his appointment letter dated 7.6.2007 issued by the Respondent Bank addressed to the Petitioner, Sri Rammohan. The appointment letter dated 7.6.2007 goes to show that Petitioner was given offer of appointment as officer in ICICI Bank and for the Post in Customer Service Branch Banking at Hyderabad. Further, for the terms and conditions of the service, it is specifically mentioned that he will devote his whole time and attention to the office work, to promote the interest of the bank and will not divulge in any person or utilise any of the banks secrets or other related information which he may possess by reason of his association with the bank, outside the bank. Thus, the designation of the Petitioner in his appointment letter has been mentioned as an officer in the ICICI Bank and he was placed in the Customer Service Branch Banking, which itself speaks that the Petitioner was not appointed as a workman, and his nature of job was to discharge independently in supervisory capacity. The definition of the Workman under Section 2 (s) of the ID Act is extracted below:-

"workman" means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person- [Substituted by Act 46 of 1982, Section 2, for Cl. (s) (w.e.f. 21.8.1984).]

(i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or

(ii) who is employed in the police service or as an officer or other employee of a prison, or

(iii) who is employed mainly in a managerial or administrative capacity, or

(iv)who, being employed in a supervisory capacity, draws wages exceeding [ten thousand rupees] per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.

Thus, as per Sec.2(s) (iii) & (iv) Petitioner was appointed in managerial capacity and also supervisory capacity of his section drawing wages in excess of Rs.10000/- p.m. Petitioner in support of his plea has examined himself as WW1. In his cross examination by the Respondent Counsel WW1 states, “ My academical qualification is MBA. In the year 2011 I have got marriage. After removal from service, I was involved in RTGS related works in the Respondent bank. I used to enter information in the system of the bank. I was working as an officer in the bank. Whatever work I used to do, I used to explain the same to the newcomers. I have gone through this evidence affidavit prepared as per my instructions. I used to initiate the work which was authorised by my senior colleagues. It is not true to say that I used to do administrative work in the Respondents Bank.” Further, WW1 states, I do not have any sanction order of leave. Witness further states that Mr. Anantha Raman was made his reporting officer.

10. Thus, WW1 himself admitted that he was appointed as an officer having qualification of MBA. WW1 states, nature of job discharging during his duty would reveal that he discharged his job in a supervisory capacity. The fact that decision of Petitioner are subject to verification or subject to system of control or balance does not establish that Petitioner is a workman within the meaning of Sec.2(s) of I.D. Act, 1947. The Manager do not become workman

because these decisions are systematic processes and approvals. Merely because he do not have power to sanction order of leave and Mr. Anantha Raman was his Reporting Officer, Petitioner can not become workman as defined under Sec.2(s) of I.D. Act, 1947. The dominant nature of duties which he was discharging was of supervisory nature.

**In the case of Hon’ble Apex Court in the case of Vandana Joshi Vs. Standard Chartered Bank Ltd., Mumbai Appeal No.67/2010 decided on 26.10.2010, Hon’ble High Court of Mumbai have held:-**

*“The Supreme Court in Ganau Kisun Sahkari Chini Mills Ltd.’s case (supra) held that the conclusion of the High Court that the burden of proof lies on the employer to establish the nature of appointment is contrary to law. The ratio of the above decisions of the Supreme Court makes it abundantly clear that it is for the appellant to prove that she is a workman within the meaning of section 2(s) of the Industrial Disputes Act, 1947 with reference to the dominant nature of her duties.*

*7. In the background of the settled principles of law stated hereinabove, now let us consider whether the appellant is a workman within the meaning of section 2(s) of the Industrial Disputes Act, 1947. The question as to whether the appellant is a workman or not must be decided with reference to the nature of the duties that were performed by her. The nomenclature in this area of law, as in others, is not decisive. Therefore, the fact that the appellant’s letter of appointment dated 2<sup>nd</sup> May, 2006 refers to the appointment being made in the management cadre of the bank is not decisive of whether the appellant was in fact doing duties which predominantly were those of a workman under section 2(s) of the Industrial Disputes Act, 1947. The letter of appointment and the addendum to it set out the conditions of appointment and nature of duties of the appellant. The appellant in her evidence admitted having signed and accepted the document and that it reflected the nature of her duties. During the course of evidence before the Industrial Tribunal, the appellant produced documents at Exhibit “18” viz. the letter of appointment., addendum and a document showing job description and key responsibilities. Under the head “Job Role” the duties expected of the appellant included “achieving allocated business targets, ensuring high quality customer service, ensuring external and internal compliance on all branch transactions, handling difficult customer situations and contributing to the overall achievement of business growth.*

*“10. The Tribunal on the basis of admission of Respondent’s witnesses that the appellant had no authority to sanction leave or initiate disciplinary proceedings held that she is not covered by either of the four exceptions to the definition under section 2(s) of the Industrial Disputes Act, 1947 and thereafter, proceeded to conclude that the appellant is a workman. In our considered view, the approach is totally erroneous. In terms of the judgment of a Constitution Bench of Supreme Court in H. R. Adyanthaya’s case (supra), it is not enough that the person is not covered by either of the four exceptions to the definition under section 2(s) of the Industrial Disputes Act, 1947 but in addition to this, it is required to show that the employee falls within one of the stipulated categories viz., manual, unskilled, skilled, technical, operational, clerical or supervisory. There is no finding by the Tribunal, whether the appellant falls within one of these categories. In fact there is no averment in the statement of claim of the appellant that her duties were of clerical nature. However, she improved her case in the rejoinder in which she set up a case that the work which she was rendering was basically clerical in nature. The Supreme Court in Management of M/s. Sonput Co-operative Sugar Mills Ltd.’s case (supra) laid down test to determine the job of a clerk. The Supreme Court in this case held that the job of a clerk ordinarily implies stereotype work without power of control or dignity or initiative or creativeness. The Supreme Court further held that the question as to whether the employee has been performing a clerical work or not is required to be determined upon arriving at a finding as regards the dominant nature thereof. The duties assigned to the Appellant in the present case show that she was intrinsically associated with the provision of a high level of customer service to the customers of the bank. The dominant nature of work and the duties for which the*

*appellant was engaged, in our opinion, cannot be regarded as stereotype work without an element of initiative or creativeness."*

11. On the other hand, Respondent has examined witness MW1 wherein witness has deposed that Petitioner was employed with the Respondent bank in the position of managerial and administrative capacity as an officer and was discharging managerial and Administrative functions. Further, Witness has mentioned the details of portfolio of Petitioner as mentioned in Appellant letter as well as in counter. Thus, the duties performed by the Petitioner during his employment of was administrative and managerial function distinguishable from manual, skilled, semi skilled, unskilled, technical, operational, or clerical duties.

12. As regards the plea of Petitioner that he was not having the power of appointing authority and no check drawing power or to take disciplinary action, control over employees, Senior Officer other managerial persons have authority to authorize any sanction. In this context the decision of **Bombay High Court in the case of Standard Chartered Bank Vs. Vandana Joshi** is relevant wherein Hon'ble High Court have held that, the fact that an employee is not vested with any power to initiate disciplinary enquiry is not conclusive of the question as to whether the work performed by the employee is within the categories determined in Sec.2(s). The fact that in an organizational structure the employee in the course of the decision making process, is subject to checks and balances is not a matter which would establish that she/he is a workman within the meaning of section 2(s). Managers do not become workmen because their decisions are structured by processes and approvals. Absolute autonomy is not the norm in managerial decision making. Nor does the law insist on absolute discretion or absolute autonomy for a person to be a manager. Basically the answer to the question must depend upon the dominant nature of the duties and responsibilities. Further, Hon'ble High Court have held that the job of clerk ordinarily an employee without power of control or initiative or creativeness whether the employee is performing clerical work depend upon arriving at a finding, dominant nature thereof.

13. In view of the fore gone discussion and law laid down by Hon'ble Court as discussed above in the present matter, Petitioner was appointed in the Respondent Bank as an officer and he was placed in the Customer Service Branch Banking, at Hyderabad for doing the work and during his employment he has to make certain decisions for satisfactory customer services. Therefore, in such nature of job which Petitioner was discharging, it cannot be inferred that the Petitioner was discharging the job of clerical nature and he was covered within the definition of Workman as given under Section 2 (s) of the ID Act. Admittedly, Petitioner was appointed as an officer in managerial and administrative capacity in the employment of Respondent bank and he was discharging supervisory functions at his place of employment as it can be gathered from appointment letter of Petitioner as well evidence of WW1 and MW1.

14. Therefore, in view of the fore gone discussion and law laid down by Hon'ble Courts, I am of the considered view that Petitioner is not a workman and not covered under the definition of Workman as given in section 2(s) of the I.D. Act, 1947. As the Petitioner is not covered under definition of workman u/s 2(s) of I.D. Act, 1947, hence, the present petition filed by the Petitioner under Industrial Disputes Act, 1947 is not maintainable.

This point is answered against the Petitioner and in favour of the Respondent.

15. **Points No.II & III:-** In view of the finding and discussion made at Point No.I, as the Petitioner is not covered under the definition of the Workman as given in Section 2(s) of Industrial Dispute Act, 1947. Thus, the present petition challenging his termination order dated 19.4.2010 passed by Respondent bank is not maintainable in this Tribunal under the I.D. Act, 1947. Thus, present petition is not maintainable in this Tribunal for the want of jurisdiction under Industrial Disputes Act. Therefore, Petitioner is not entitled for any relief in this case and his petition being not maintainable, is liable to be rejected.

Thus, Points No.II and III are answered accordingly.

#### AWARD

In view of the fore gone discussion and law laid down by the Hon'ble Apex Court, it is held that the Petitioner's claim is not maintainable in this Tribunal under I.D. Act, 1947 hence, stands dismissed. Reference is answered accordingly.

Award is passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant, transcribed by her, corrected and signed by me on this the 27<sup>th</sup> day of May, 2024.

IRFAN QAMAR, Presiding Officer

#### Appendix of evidence

Witnesses examined for the  
Petitioner  
WW1: Sri V. Ram Mohan

Witnesses examined for the  
Respondent  
MW1: Sri Sairam Mushyam



**Documents marked for the Petitioner**

Ex.W1:	Photostat copy of appointment order dt.7.6.2007
Ex.W2:	Photostat copy of medical prescription dt.6.10.2009
Ex.W3:	Photostat copy of medical certificate dt.6.10.2009
Ex.W4:	Photostat copy of medical certificate 16.1.2010
Ex.W5:	Photostat copy of representation dt. 18.1.2010
Ex.W6:	Photostat copy of representation dt.15.4.2010
Ex.W7:	Photostat copy of termination letter dt.19.4.2010
Ex.W8:	Photostat copy of courier receipt dt.19.10.2009
Ex.W9:	Photostat copy of courier receipt dt. 19.10.2009
Ex.W10:	Photostat copy of medical prescription & certificate dt. 27.3.2009
Ex.W11:	Photostat copy of telegram dt. 6.10.2009

**Documents marked for the Respondent**

Ex.M1:	Photostat copy of pay slip for the month of July, 2009
Ex.M2:	Photostat copy of Statement of account of WW1
Ex.M3:	Photostat copy of authorization letter in favour of MW1

नई दिल्ली, 19 अगस्त, 2024

**का.आ. 1638.—**औद्योगिक विवाद अधिनियम 1947 (1947 का 14 ) की धारा 17 के अनुसरण में केन्द्रीय सरकार रक्षा इलेक्ट्रॉनिक्स अनुसंधान प्रयोगशाला के प्रबंधक, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (38/2014) प्रकाशित करती है।

[सं. एल-14011/16/2013-आई आर (बी-1)]

सलोनी, उप निदेशक

New Delhi, the 19th August, 2024

**S.O. 1638.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.38/2014) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of Defence Electronics Research Laboratory their workmen.

[No. L-14011/16/2013– IR(B-1)]

SALONI, Dy. Director

**ANNEXURE****IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT  
HYDERABAD**

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 3<sup>rd</sup> day of May, 2024

**INDUSTRIAL DISPUTE No. 38/2014**

Between:

The General Secretary,

DLRL Karmika Sangh

C/o DLRL, Chandrayanagutta

Hyderabad

AND

.....Petitioner

The Director,

DLRL,

Chandrayana Gutta,

Hyderabad.

...

Respondent

Appearances:

For the Petitioner : Sri M Kiran Kumar, Advocate

For the Respondent: Mrs. K Rajitha, Advocate

### A W A R D

The Government of India, Ministry of Labour by its order No.L-14011/ 16/2013-(IR(DU)) dated 28.2.2014 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s D L R L and their workman. The reference is,

### SCHEDULE

“Whether the action of the management of Defence Electronics Research Laboratory (DLRL) Chandayanagutta, Hyderabad in not granting of Special Disability Leave to Smt. Bhulakshmi TA ‘B’ from 19.01.2011 to 20.05.2011 (121 days) is fir, proper, legal and justified. If not, to what relief the workman is entitled to.”

The reference is numbered in this Tribunal as I.D. No. 38/2014 and notices were issued to the parties concerned.

2. After filing claim statement Petitioner remained absent. Counsel for Petitioner submitted that there are no instructions from Petitioner and requested to close the petition. In view of the submission of Counsel for Petitioner, petition is dismissed and a ‘No-claim’ award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Shri Vinay Panghal, LDC corrected and signed by me on this the 3<sup>rd</sup> day of May, 2024.

IRFAN QAMAR, Presiding Officer

### Appendix of evidence

Witnesses examined for the

Witnesses examined for the

Petitioner

Respondent

NIL

NIL

### Documents marked for the Petitioner

NIL

### Documents marked for the Respondent

NIL

नई दिल्ली, 19 अगस्त, 2024

**का.आ. 1639.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मुंबई पोर्ट ट्रस्ट के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय मुम्बई-I के पंचाट (15/2022) प्रकाशित करती है।**

[सं. एल-31011/03/2022-आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 19th August, 2024

**S.O. 1639.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.15/2022) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court*

Mumbai -I as shown in the Annexure, in the industrial dispute between the management of Mumbai Port Trust and their workmen.

[No. L-31011/03/2022– IR(B-II)]

SALONI, Dy. Director

### ANNEXURE

### THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT NO.1 MUMBAI.

Ref. No. CGIT-1/15 of 2022

Mumbai Port Trust

.....First Party

Versus

Their Workmen

.....Second Party

### AWARD

In the present case, a reference was received from the appropriate Government vide letter No. 31011/03/2022-IR-(B-II) dated 16.06.2022 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, terms of which are as under:

### SCHEDULE

*“(i) Whether Shri Abdul Aziz Mohammad Kazi and Shri Pravin Gholap are covered under the definition of workmen under section 2(s) of ID Act, 1947?”*

*“(ii) If Yes, whether the demand raised by Union i.e. Mumbai Port Trust, Dock and General Employees’ Union vide their letter dated 01/08/2019 (copy enclosed) against the action of the management of Mumbai Port Trust (MbPT) in not relieving Shri Abdul Aziz Mohd. Kazi and Shri Pravin J. Gholap from the post Legal Assistant to their parent department/parent post (substantive Posts) is proper, legal and justified?”*

*“(iii) If yes, what relief they are entitled to?”*

2. In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Claim statement filed, rebuttal written statement on behalf of the management also filed.

3. On receipt of the above reference order, notice was sent to the managements. Both parties are appeared on the hearing, but on 03.02.2024 Ld.

A/R for the respondent/management has supplied an application for withdrawal of the reference for want of prosecution. After the receipt of the letter of repatriation the concerned workmen joined their original department on the post held by them before deputation with the promotions, they would have received during the period of deputation in the management. Management submits entire claim of the Second party has been resolved by issuing letters of repatriation to the concerned workmen 1 & 2 on 22.04.2024.

4. Hence, in these circumstances this tribunal has no option except to pass the no dispute award. No dispute award is passed accordingly. File is consigned to the record room. A copy of this award is hereby send to the appropriate government for notification under section 17 of the I.D. Act, 1947.

Justice VIKAS KUNVAR SRIVASTAVA (Retd.), (I/c Presiding Officer)

Date: 15.05.2024

नई दिल्ली, 19 अगस्त, 2024

**का.आ. 1640—औद्योगिक विवाद अधिनियम 1947 (1947 का 14 ) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चंडीगढ़-I के पंचाट (391/2001) प्रकाशित करती है।**

[सं. एल-12011/158/2001-आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 19th August, 2024

**S.O. 1640.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.319/2001) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Chandigarh-I* as shown in the Annexure, in the industrial dispute between the management of Punjab National Bank and their workmen.

[No. L-12011/158/2001— IR(B-II)]

SALONI, Dy. Director

**ANNEXURE**

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH.**

**Present: Sh. Kamal Kant, Presiding Officer-cum-Link Officer, Chandigarh.**

ID No.319/2001

Registered On: 06/12/2001

The Punjab National Bank Workers Union (NZ) Regd. EG 810-A

Mohalla Gobindgarh Jalandhar (Punjab)- 144001

.....Workman

**Versus**

The Management, Punjab National Bank, Regional Office, Rohtak

(124001) through its Senior Regional Manager.

.....Management

**AWARD**

**Passed On: 11.06.2024**

Central Government vide Notification No. L-12011/158/2001 (IR(B-II)) dated 28.11.2001, under clause (d) of Sub-Section (1) sub-section (2) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

**“Whether the action of the management of Punjab National Bank, in removing Shri Daya Nand Yadav from service and imposing the penalty of recovery of Rs.53,570/- is just and legal? If not so, what relief the workman is entitled to?”**

1. During the pendency of the proceedings before this Tribunal the case was fixed for arguments on fairness of enquiry but none is responding on behalf of workman. It is submitted by the Ld. Counsel for the management that workman is not turning up since long i.e. from 29.04.2020 and prayed for dismissal of the present claim petition.

2. Perused the file and it is found that the submissions made by the Ld. Counsel for management is true. Several opportunities have already been given to the workman for arguments on fairness

of enquiry but of no use. Which denotes that the workman is not interested in adjudication of the matter on merits as such, this Tribunal is left with no choice except to pass a ‘No Claim Award’. Accordingly, no claim award is passed in the present case for the non-prosecution of workman. File after completion be consigned in the record room.

3 Let copy of this award be sent to Central Government for publication as required under Section 17 of the ID Act, 1947.

KAMAL KANT, PO-cum-Link Officer